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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1947

No. 90

PEOPLE OF THE STATE OF ILLINOIS, EX REL. VASHTI McCOLLUM, APPELLANT,

vs.

BOARD OF EDUCATION OF SCHOOL DISTRICT No. 71, CHAMPAIGN COUNTY, ILLINOIS, ET AL.

APPEAL FROM THE SUPREME COURT OF THE STATE OF ILLINOIS

FILED MAY 15, 1947.

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INDEX

	Original	Print
Proceedings in Supreme Court of Illinois	1	1
Abstract of record from Circuit Court of Champaign County, Illinois	1	1
Petition for writ of mandamus	1	1
Exhibit "A"—Pamphlet entitled "Rationalism vs. Religious Education in the Public Schools," by Arthur G. Cromwell	22	17
Special motion to quash petition and summons and to dismiss the petition	44	36
Order overruling special motion to quash petition and summons and to dismiss the petition	45	37
Answer	46	37
Order of intervention	68	54
Intervening petition	69	55
Reply to intervening petition	72	57
Motion to dismiss petition, etc.	74	59
Opinion of Court	76	60
Findings of fact	77	61
The law	90	70

JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., JUNE 26, 1947.

	Original	Print
Abstract of record from Circuit Court of Champaign County, Illinois—Continued		
Order denying petition for mandamus	114	89
Notice of appeal	115	89
Report of proceedings	117	90
Testimony of Mae Chapin	117	90
Mrs. Lakie B. Munson	142	110
Eugene Harvey Mellon	151	117
John George Kaiser	156	120
Harold E. Barcus	159	123
Eugene Harvey Mellon (recalled)	162	125
Delos L. Huxtable	164	127
Rev. H. Clifford Northcott	166	128
Edwin H. Reeder	169	130
Rev. Ernest William Moore	170	131
Bessie Taylor	171	132
Sarah Grace Jorgensen	177	137
Reta Campbell	189	146
William C. Bursk	191	148
Rev. Clarence J. Higgins	194	150
Wanda I. Bash	196	152
Rev. Alva R. Cartlidge	200	155
Arthur G. Cromwell	217	168
James Terry McCollum	224	174
Relator's Exhibit 2—Card authorizing teaching of religion	227	176
Testimony of Hallie B. Snyder	232	180
Arthur G. Cromwell	233	181
James Terry McCollum (recalled)	233	181
Rev. Erwin A. Gade	240	187
Rev. Carl Baehr	242	188
Vashti McCollum	245	191
Mrs. Ralph L. Kelley	276	215
M. H. Adams	277	216
Philip Schug	279	217
Mae Chapin (recalled)	285	222
Herbert L. Miller	289	225
Rabbi Judah Goldin	293	228
Elmer C. Bash	295	230
Vashti McCollum (recalled)	297	231
Defendant's Exhibit 300—Letter from Vashti McCollum	297	232
Motion to dismiss or to strike and denial thereof	297	232
Testimony of Elmer C. Bash (recalled)	298	232
Alice J. Bash	299	233
Eugene Harvey Mellon (recalled)	304	237
Carol Ridenour	311	243
Helen Benefiel	314	245
Alice Allen	315	246
Janet Hollingsworth	316	247
Patricia Hazelton	318	248
John Russell	320	250
Mary Lou Terry	321	251

	Original	Print
Abstract of record from Circuit Court of Champaign County, Illinois—Continued		
Testimony of—Continued		
Barbara Becker	322	252
Mary Russell	324	253
Bessie Taylor (recalled)	325	254
Rev. Herbert L. Miller (recalled)	330	255
James Ridenour	332	259
Vider M. McClelland	333	260
Bergen Parkhill	334	262
Peter Landrum	336	263
Elwin Eugene Miller	337	264
Eugene Harvey Mellon (recalled)	341	267
Renewal of motion to dismiss	341	267
Opinion, Thompson, J.	343	268
Judgment	355	280
Petition for appeal, assignments of error, prayer for reversal	355a	280
Order allowing appeal	359	283
Citation (omitted in printing)	361	
Cost bond (omitted in printing)	362	
Stipulation as to record on appeal	363	284
Clerk's certificate (omitted in printing)	364	
Statement of points to be relied upon and designation of parts of the record to be printed	365	285
Order noting probable jurisdiction	366	285

[fol. 1]

IN THE SUPREME COURT OF ILLINOIS, SEPTEMBER TERM, A. D. 1946

PEOPLE OF THE STATE OF ILLINOIS, ex rel. VASHTI McCOLLUM, Plaintiff-Appellant,

vs.

BOARD OF EDUCATION OF SCHOOL DISTRICT No. 71, CHAMPAIGN COUNTY, ILLINOIS, Defendants-Appellees,

and

ELMER C. BASH and ALICE J. BASH, and WANDA I. BASH, a Minor, by Elmer C. Bash, Her Father and Next Friend, Intervenors

Appeal from Circuit Court, Champaign County

Honorable Frank B. Leonard, Judge Presiding

Abstract of Record from Circuit Court of Champaign County—Filed September 19, 1946

PETITION FOR WRIT OF MANDAMUS—Filed June 11, 1945

To The Honorable Judges Of Said Court:

1. Your petitioner, Vashti McCollum, the relator and plaintiff, is a resident and taxpayer in Champaign School District Number 71 in Champaign County in the State of Illinois. She, her husband and children are all residents of said school district and are all citizens of the United States [fol. 2] and of the State of Illinois. She and her husband are joint owners of real estate in said school district, county and state, upon which real estate they pay, and for many years have been paying, taxes of much more than one hundred dollars annually. She submits this petition to this Honorable Court on behalf of herself and all other taxpayers similarily situated.

2. The relator adheres to the school of thought known as "Rationalism" including atheism, is not a believer in any religious creed or doctrine and accepts no part of any bible as true where such part is not in accord with reason. Her

views and understanding concerning religion are further set forth as those in the publication entitled, "Rationalism *vs.* Religious Education in the Public Schools," written by her father, Arthur G. Cromwell, and a copy of which is hereto attached, marked "Ex. A," and made a part hereof. It is her desire that her own children, while they are infants under her care and control, be educated in accord with her own beliefs and understanding concerning religions, gods and bibles, which beliefs and understanding *she* finds, of all, to be the most intellectual, scientific, practical and honest, and the most conducive to good character and good citizenship. She desires that none of her children be indoctrinated in their infancy, in any school or by any teacher, with any of the numerous fallacious and controversial religious creeds, theories or dogmas, or with religious beliefs adverse to her own, and that they may be free from religion and any exercise thereof; and she desires corresponding freedom and protection for all other parents, regardless of creed, or their religious or anti-religious beliefs.

[fol. 3] 3. There are now in full force and effect the following provisions of the Constitution of Illinois:

"The general assembly shall provide a thorough and efficient system of free schools, whereby all children of this state may receive a good common school education." Const. of Ill., Art. VIII, Sec. 1.

"No person shall be deprived of life, liberty or property without due process of law." Const. of Ill., Art. II, Sec. 2.

4. Revenue for establishment, support, maintenance and operation of the schools in said school district is provided by taxes levied, pursuant to laws of the State of Illinois, upon property in said school district, and paid by taxpayers in the district, of which taxpayers relator is one, as aforesaid.

5. The defendant is the Board of Education in said Champaign School District Number 71. It is a corporate body, consisting of a president and six members, organized according to the laws of the State of Illinois.

6. In said school district sites for schoolhouses with necessary grounds have been bought and schoolhouses built thereon; and defendant has established and does support

and maintain free public schools in said houses and upon said grounds, and does repair and improve the schoolhouses and furnishes them with fixtures, furniture, apparatus, libraries, and fuel; and does employ and pay salaries to a superintendent and to principals, teachers and janitors for said schools.

7. A statute of Illinois, now in full force and effect, provides:

"Every person having custody or control of any child between the ages of seven and sixteen years, shall, annually cause such child to attend some public or private school for the entire time during which the public school in the [fol. 4] district wherein the pupil resides is in session: Provided, that in the following cases children shall not be required to attend the public schools:

"(a) Any child attending a private or parochial school * * *;

"(b) Any child who is physically or mentally unable to attend school, * * *;

"(c) Children over fourteen years of age, who are necessarily and lawfully employed, * * *;

"(d) Any child over twelve and under fourteen years of age during the hours while in attendance at confirmation classes.

* * * * * * *

"Any person * * * who shall fail to comply * * * shall be deemed guilty of a misdemeanor and shall be fined not less than five dollars * * *." Ill. Rev. Stat. 1939, Ch. 122, Sec. 301.

8. James Terry McCollum is the son of plaintiff, is ten years of age, is in the custody and under the control of plaintiff and resides with her and her husband in her home in said school district, county and state. He attends no private or parochial school. He is physically and mentally able to attend school, and plaintiff is compelled, by reason of the foregoing law, to cause him to attend one of the public schools.

9. The Constitution of the United States provides:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" Const. of the U. S., Amend. (I).

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny [fol. 5] to any person within its jurisdiction the equal protection of the laws." Const. of the U. S., Amend. XIV, Sec. 1.

10. The Constitution of Illinois, as now in full force and effect, provides:

"The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity on account of his religious opinions; * * *. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship." Const. of Ill., Art. II, Sec. 3.

11. That in violation of said provisions of said Federal and State constitutions, instructors in religious education do come upon the school grounds and into the schoolhouses in said school district while public schools are in session, between the opening and closing of school and during the hours of regular, secular teaching and education of the pupils therein, at public expense, as aforesaid, and do then and there usurp and take over the use of said property for religious education of pupils who are assembled there for secular education, pursuant to the said law requiring compulsory school attendance, and the constitutional and statutory provisions for a good common school education for the children of the State of Illinois, as aforesaid, and do then and there for a period of thirty minutes oust the teaching of the secular education provided and required by law, and, in the place thereof, substitute instruction in religious education.

12. Said instructors in religious education do invade all, or nearly all, grade schools in said district, and the classrooms regularly used for instruction of pupils of certain [fol. 6] grades, including the 4th, 5th and 6th grades, in one of which schools and in one of which grades plaintiff's son, the said James Terry McCollum, is regularly enrolled and in attendance for secular education, as provided and required by law, as aforesaid. And said weekly invasion of each of said rooms does occur, and during the last past three years or more has occurred, regularly and steadily when schools are in session.

13. The 30-minute period of secular education lost each week is not later recovered, made up, or otherwise replaced or accounted for, but the loss is permanent. The said weekly period of time so usurped and used on the day of said religious education, is taken from a 30-minute period, which, on other days of the week, is used for secular education.

14. Pupils in each classroom so usurped and used for religious education, upon permission of their respective parents, are welcomed into the class in religious education and joyfully received by the instructor therein upon willingness to participate, regardless of the denominational affiliations or lack of affiliation of the parents of such young and indiscrimnate children. And the said instructor in religious education does give his or her instruction in a friendly and solicitous manner, and does make his or her lessons in religious education entertaining and fascinating to said young children, whereby said children may become attracted thereto, desirous of participating therein, and their interest and attention wrongfully diverted from their regular secular and lawful studies in said schools and children without parental permission to participate may harass and annoy their parents with requests for such permission; all with the ultimate intent, purpose and effect of establishing [fol. 7] in the young and indiscriminating minds of children of such credulous age a knowledge, interest and belief in a certain religion, god and bible as approved and taught by said instructor.

15. One of said instructors in religious education teaches a doctrine that there is a supernatural and divine being, person or thing, called "God"; that there is relationship

between mankind and said alleged God, whereby all earthly persons are dependent upon and responsible to said God. She also establishes in the minds of pupils a certain sectarian theory that said God is of masculine gender (by use of pronouns) and that said God and a female person named "Mary" (also known as the wife of Joseph) were the father and mother of a male child, called "Jesus Christ"; that thereafter the parents (then referred to as Joseph and Mary) fled with said child into Egypt until after the death of Herod; that said male child grew to manhood, and by reason of his relationship to and favoritism on the part of said God, he was endowed with miraculous, personal proclivities, but was ultimately killed by Jews, on Good Friday; that thereafter, on Easter Sunday, life was revived in his body, and he met, personally with some of his disciples, and he departed from them still living in said post mortem life.

16. Said instructor sometimes refers to said God by other names, such as "Lord" and "Jehovah." She teaches that said God once caused a great flood upon the earth, and thereby drowned many people and other dry-land animals but preserved couples of species by placing them in an ark which weathered the storm; that said God, pursuant to a covenant, favored certain persons, such as Abraham, Jacob and Joseph; that Jacob had a struggle with [fol. 8] an angel of God, which struggle said instructor interprets as a religious experience; that Adam and Eve were respectively, the first man and woman; that the Old Testament teaches of the "calling" of the Jewish nation; that Jacob had two wives, and that the offspring of such polygamy became God's chosen and preferred people; that Moses was associated with Jehovah; that God revealed himself to Moses through the medium of a burning bush; that God has the qualities of love and guidance; that God has performed supernatural and miraculous achievements in Egypt, and has shown signs and miracles to Pharaoh.

17. She teaches that by reliance upon God as a shepherd one may achieve freedom from want, by having pupils learn and recite such statements as: "The Lord is my shepherd, I shall not want."

18. She teaches that the Bible (King James version) is called the Christian's Guide Book, the Holy Writ and the

Word of God, by which teaching children may come to feel worshipful reverence for said book and regard it with higher esteem than other books.

19. She tells pupils, in substance, that ancient persons, called prophets, once lived, and, because of their affiliation with said God, they could foretell future events; that one, Isaiah, foretold the coming of Jesus Christ many years before the birth of Christ, thereby lending credence to the doctrine that devotion to God may pay unusual rewards; and that God actually did have some affiliation with the alleged Jesus Christ.

20. She also teaches the sectarian religious views that Jesus could be loved; that some angels gave a Christmas message to some shepherds; that Jesus was baptized in a river; that Jesus healed the sick (without teaching that [fol. 9] he used drugs or surgery); that he raised the dead by reviving life in deceased persons; that Jesus was a hero, and the main hero of the Bible; that persons other than Jesus have been known to heal the sick by Christ's methods; that the main theme of the Bible is Salvation; that the New Testament deals with a supposed "New Covenant" made possible by the life and death of Christ; that people owe a certain obedience to God; that certain persons have heard "calls" from God and have obeyed same; that children should perform ceremonies, called prayers, to said God; that there is power in faith and reward for prayers to said alleged God; that Jesus said "Whatsoever you ask the Father in my name he will give it to you"; that there is life again after death, and that persons may acquire everlasting life.

21. By practice and example she does refer to, copy and quote from the King James version of the Bible, whereby a practice of doing likewise may be established in the habits of pupils.

22. Said instructor in religious education conducts all classes in religious education in the classroom attended by plaintiff's son, James Terry McCollum, and in certain other classrooms in said schools. Said instructor is so employed for said teaching and instruction, and is compensated therefor, by Inter-Churchmen's Council, a voluntary and private organization and a religious establishment controlled by and composed mostly of members who are min-

isters of or interested in religion and desire promotion and advancement of certain churches and other religious establishments, and who, from and through some of their established churches, obtain contributions which are applied to the payment of the salary of said instructor. And said instructor is under the control and supervision of said [fol. 10] private organization of religious sponsors, and not the defendant.

23. And said instructor, a former missionary and a member of a large protestant religious denomination herself, does serve said religious sectarians, and their respective religious churches, by establishing in the minds of little, credulous children in said classrooms a great adoration, admiration, affection, reverence and deference for said alleged God, and causes them to honor and have sentiments of worship concerning said alleged God, and does teach and instill, into said children, faith in said God, and causes them to exercise worship through such faith in God.

24. By reason of the foregoing, an establishment of religion is grafted onto public school education, church and state become united in the classroom, worship is established in the lives of indiscriminating infants, religion is regimented, public education is controlled and censored privately by sectarians, and pupils are taught what to believe; and proselyting is practiced among little children of rationalists and humanists and of parents desirous of avoiding churches and religions, and of parents belonging to denominations too small to employ their own private teachers for said public schools; and public schools become fields for private missionaries and for rivalry of religious sects, public revenue is diverted to private use, taxpayers are not all affected alike, and many persons are denied equal protection of the laws, all contrary to the said 1st and 14th Amendments to the Constitution of the United States and to said provisions of the Constitution of Illinois.

25. When a pupil fails to participate in a class in religious education conducted in his regular classroom, he is [fol. 11] forced to surrender and is denied the use of such classroom for his instruction by his lawful teacher, employed and paid by defendant; and if he departs to the hallway, stairway or a substituted room to avoid said religious lesson, he is there deprived of the use of his regular desk

and other apparatus in his regular room; whereby, he is deprived of the use of such property without due process of law.

26. Although a pupil, by reason of the religious views of his parents, is excused from and leaves his classroom when religious education is taught to his class, he is compelled to attend and continue his secular studies in such place of religion and worship and there be present until the time religious instruction begins, before he leaves; or he must return and be present to resume his secular studies when it ends, or be present on both occasions. Such going and coming is extremely obvious and noticeable and may be understood by many as a gesture of disapproval of and contempt for the adult teacher of religious education, or it may incite curiosity about and invite unfavorable criticism and ridicule of the views of the victim's parents by a class of immature children who have not fully reached their age of reason, all to the embarrassment of said child.

27. If such child remains at his desk but does not participate in said religious education and worship his differences are nevertheless obvious and noticeable and he remains silent and unattended while fellow pupils around him are participating in exercises and receiving instruction and attention from the friendly instructor in religious education; and such segregation is thereby emphasized for one half hour.

28. In the said school attended by plaintiff's said child, [fol. 12] the majority or nearly all of the pupils in the 4th, 5th and 6th grades are enrolled in the religious education courses. When plaintiff's child was not enrolled with his classmates because of the views of his parents, and of his own, his religious difference was noticed by his classmates and their good will and esteem for him were injured; he was shunned by them and denied enjoyment of their society and friendship, and he was laughed at, hated, despised and looked upon with childish contempt by fellow pupils. Approval of the courses in religious education was supported mentally and morally by the influence and prestige of the adult instructor in religious education appearing in their midst and assuming authority and control of their classroom, all in the presence of and with the ostensible approval of his lawful, secular teacher. And no adult with

any such influence or prestige has been employed to appear, with regularity to sustain his views and those of plaintiff, and to expose the fallacies of the religious views and doctrines taught by said religious instructor.

29. By reason of said segregation, ostracism, ridicule, hostility and embarrassment, and the influence and prestige of said adult religious instructor and the desirability of obtaining her personal attention in the presence of other children, and by reason of other social pressures, all as aforesaid, the said child of plaintiff has been, within the past year, and yet is subjected to coercion and compulsion to seek plaintiff's permission and to participate in the religious education, and plaintiff, likewise, to grant permission, all in violation of their natural and constitutional rights to be free from religion and worship and from the exercise of either as provided by the 1st and 14th Amend-
[fol. 13] ments to the Constitution of the United States, and by the Constitution of Illinois, as aforesaid.

30. The Constitution of Illinois, as now in full force and effect, provides:

"Neither the general assembly nor any county, city, town, township, school district, or other public corporation, shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor shall any grant or donation of land, money or other personal property ever be made by the state or any such public corporation, to any church, or for any sectarian purpose." Const. of Ill., Art. VIII, Sec. 3.

31. The Statutes of Illinois, as now in full force and effect, provide:

"No county, city, town, township, school district or other public corporation shall make any appropriation, or pay from any school fund whatever, anything in aid of any church or sectarian purpose, or to support or sustain any school, academy, seminary, college, university or other literary or scientific institution controlled by any church or sectarian denomination whatever; nor shall any grant or donation of money, or other personal property, be made by

any such corporation to any church or for any sectarian purpose." Ill. Rev. Stat. 1943, Ch. 122, Sec. 286.

"The board of school directors shall be clothed with the following powers:

"Tenth—To have the control and supervision of all public school houses in their district, and to grant the temporary use of them, when not occupied by schools, for religious meetings and Sunday schools, for evening schools and literary societies, and for such other meetings as the directors [fol. 14] may deem proper; to grant the use of assembly halls and class rooms when not otherwise needed, including light, heat and attendants, for public lectures, concerts, and other educational and social interests, under such provisions and control as they may see fit to impose and to conduct, or provide for the conducting of recreational, social and civic activities in the school buildings under their control. Ill. Rev. Stat. 1943, Ch. 122, Sec. 123.

"The board of education shall have all the powers of school directors, is subject to the same limitations, * * *." Ill. Rev. Stat. 1939, Ch. 122, Sec. 136.

32. Not only does said instructor in religious education in said public schools exercise preference, by use, of the King James version of the Bible over the Douay version, but exercises preference likewise for said Christian, Protestant Bible over the Mohammedan Koran, the Zoroastrian Zend-Avesta, the Hindu Veda and all other ancient holy writs and sacred scriptures; and the Christian, Protestant creeds, doctrines and tenets, as relating to God (and Jesus Christ) are preferred over those as relating to Allah, Ormuzd, Brahma and the gods proclaimed by other religious sects in large denominations, all of which preference is in violation of said constitutional and statutory provisions herein referred to.

33. Said instructor does not teach all of said Christian, Protestant Bible, nor teach its pages in sequence nor its contents in chronological order, but chooses excerpts from their context, makes combinations of such selections according to her own preference and in accord with the approval of her said private sponsors, and teaches such selections to pupils, teaching in the light of her own sectarian views and training.

34. In particular, the said information so imparted by her may support the religious doctrines and tenets of one religious sect or another, or may be adverse to some doc-
[fol. 15] trine or theory which is religious or anti-religious.

35. She submits mimeographed groups of statements to pupils, directing each pupil to check the statement he thinks is correct in each group. Some call for selection among sectarian doctrines, such as follows:

"The most important value of the book of Genesis is: (a) scientific; (b) historical; (c) religious."

"The important lesson Abraham learned when he started to offer Isaac as a sacrifice to God was: (a) God does not require human sacrifice; (b) God cares for the innocent; (c) animal sacrifice is pleasing to God."

"The story of Jacob's dream shows this advance over the religion of the Canaanites: (a) God is thought of as the Father of all; (b) God is not tied down to one locality; (c) God is thought of as a God of justice."

36. And, teaching sectarian doctrines concerning "Faith", said instructor does distribute among pupils mimeographed outlines, containing controversial conclusions of a sectarian nature, including such as follows:

"Faith Saves Rahab—Joshua 2"
"Faith Conquers Jerico—Joshua 6"
"Faith Wins a Victory at Gibeon—Joshua 9, 10"
"Caleb Conquers Giants by Faith—Joshua 14, 15"
"Joshua, A Man of Faith—Joshua 23, 24"
"Deborah, A Woman of Faith—Judges 4, 5"
"Gideon, A Warrior of Faith—Judges 6, 7, 8"
"Ruth Chooses a Life of Faith—Ruth, Chapters 1-4"

37. Said instructor in religious education tells religious stories and causes children in her classes to tell and write [fol. 16] religious stories in their own words, all according to her own understanding of parts of said King James version of the Bible. She quotes selected passages from said Bible and makes comments and remarks concerning them. She includes in her religious teachings verses from sources other than the Bible, such as verses teaching children to say prayers. She teaches lessons on the subject of "Faith" by choosing and reorganizing passages taken from various parts of the Bible and then teaching her collection of excerpts to the children.

38. She conducts examinations in which she submits to her classes certain statements, the children to indicate whether they are true or false. The statements include such as follow:

"Samuel was known as a prophet of Jehovah."

"The Israelites took the Ark of the Covenant into battle because they thought Jehovah Himself dwelt therein."

"David was able to kill Goliath because he had the best armor and the best weapons."

"David's sin of taking Uriah's wife was condoned by Nathan, the prophet."

"Jeroboam allowed golden calves to be set up at the shrines in Dan and Bethel."

"Queen Jezebel was devoted to the religion of Jehovah."

"In Elijah's contest with the priests of Baal, Jehovah was victorious."

"Elijah was never discouraged or afraid what might happen to him."

"Elijah is said to have departed this world in a chariot of fire."

"One of Elijah's miracles was the healing of the Syrian King."

"Jeroboam, II enjoyed the longest and most prosperous reign of all the Kings of Israel."

[fol. 17] 39. A statute in full force and effect in Illinois now provides:

"The board of directors shall have the following additional duties:

* * * * * * *

"Seventh—to appoint all teachers and fix the amount of their salaries.

"Eighth—To direct what branches of study shall be taught, what textbooks and apparatus shall be used, and to enforce uniformity of textbooks in public schools; * * *

"Ninth—To establish and keep in operation for at least eight months in each year, and longer if practicable, a sufficient number of free schools for the accommodation of all persons in the district over the age of six and under the age of twenty-one years and to secure for all such persons the right and opportunity to an equal education in such school." Ill. Rev. Stat. 1943, Ch. 122, Sec. 122.

40. In violation of the foregoing, instructors in religious education are appointed for permanent and regular service in said public schools, and the amount of their salaries fixed, but not by the defendant; nor does the defendant determine what branches of study shall be taught, nor what textbooks shall be used, nor does it enforce uniformity of textbooks in said religious education in said public schools; nor does it secure for all children from six to twenty-one years of age the right and opportunity to an equal education, but provides education for children of parents of certain religious beliefs, and education according to such beliefs, but does not provide such opportunity to children of other religious beliefs nor to the children of atheists. The foregoing also violates the Federal and State constitutional provisions, providing for equal protection of the laws, as aforesaid.

[fol. 18] 41. In violation of said law, a Catholic priest does regularly give instruction in religious education in the junior high school in said school district, teaching religion to the children of parents of his own faith, and in doing so wears the garb characteristic of his religion; and said school board does aid and abet in such violation by furnishing a classroom and other facilities therefor.

42. There is in full force and effect in the State of Illinois a statute providing:

"No officer or employee of the State of Illinois, or of any political subdivision thereof, * * * shall deny or refuse to any person, on account of race, color or religion, the full and equal enjoyment of the accommodations, advantages, facilities or privileges of his office or services or of any of the property under his care." Ill. Rev. Stat. 1939, Ch. 38, Sec. 128k.

43. School houses and property in said school district are not equally available to plaintiff for teaching the anti-religious tenets of atheism and rationalism, or to unteach the teaching of said religious teachers; nor are they so available to certain small denominations, such as Jehovah's Witnesses.

44. There is now in full force and effect a statute in Illinois the provisions of which include the following:

"The religion or religious affiliation of any applicant seeking employment either as a superintendent, principal,

teacher or otherwise in the public grade or high schools of the State of Illinois, shall not be considered either as a qualification or a disqualification for any such employment." Ill. Rev. Stat. 1939, Ch. 122, Sec. 297a.

45. Atheists or rationalists are not employed to give instruction in religious education, and persons of the religious [fol. 19] faith of minority denominations are not so employed.

46. Certain cards used for obtaining permission of parents to have children take said religious instruction are prepared and distributed through the offices of the superintendent and through the hands of principals and teachers while engaged in their professional duties in said schools. The said school buildings, with light, heat and furniture and with janitor service, are furnished free of charge to said instructors in religious education and paid for with taxpayers' money (of which taxpayers plaintiff is one), whereby public funds are diverted to private use and taxpayers are deprived of their property without due process of law. And taxpayers are not affected all alike, but some, including the plaintiff, are denied equal protection of the laws; all in violation of the constitutional and statutory provisions aforesaid.

47. The schools of Champaign School District Number 71 are under the control and supervision of defendant, within whose power it is, and whose duty it is, to adopt and enforce all necessary rules and regulations for the management and government of said public schools as required by the statutes of Illinois, which are now in full force and effect and which now do provide:

"The board of directors shall have the following additional duties:

* * * * * * *

"Fifth—To adopt and enforce all necessary rules and regulations for the management and government of the public schools in their district." Ill. Rev. Stat. 1939, Ch. 122, Sec. 122.

48. Plaintiff has often protested to defendant, the superintendent and the teachers employed by it, against such [fol. 20] religious education; and the plaintiff did, on the 8th day of June, 1945, serve upon said defendant a demand in writing by delivering to both Mr. D. L. Huxtable, presi-

dent of said board, and Mrs. Ralph Kelly, secretary of same, in person in Champaign County, Illinois, a true and complete copy of said demand, a copy of which demand is as follows:

"Demand That Religious Education Be Prohibited in Public Schools

"Each and all of the undersigned, jointly and severally, hereby make demand upon the Board of Education of School District Number 71, Champaign County, Illinois, to immediately adopt and enforce rules and regulations prohibiting all instruction and all teaching in religious education in all public schools in Champaign School District 71, Champaign County, Illinois, and in all public school houses and buildings which are in Champaign School District 71, Champaign County, Illinois, when such houses or buildings are occupied by public schools; and prohibiting use in religious education of any public school classroom or assembly hall when otherwise needed; and prohibiting the teaching or conducting of courses, regularly or steadily, in any religious education in any school house or upon any school ground in said school district.

"Each of the undersigned likewise make further demand upon the said Board of Education that it withhold all school funds from payment of *anything* in aid of any church, sectarian or religious purpose, or in aid of any religious school in any public school building, where such religious school is controlled in any manner by any one or more churches, sectarian or religious denominations;

"And, likewise, demand is further made that said Board of Education do not donate or grant or permit the use of any personal property in any of said schools for any sectarian or religious purpose, or in respect to an establishment [fol. 21] of any religion of any kind, in any manner; and that said Board of Education withhold all school funds from payment of *anything* in support of any building or other place used in respect to an establishment of any religion of any kind.

Vashti McCollum, 1118 W. John St., Champaign, Ill.
Rev. Randall S. Hilton, Rev. Paul J. Folino, Rabbi Jacob J. Weinstein.

Robert S. Greenfield, *Chicago Action Council.* Ira Latimer, *Civil Liberties.*"

49. Yet the defendant has ever refused and failed, and yet does refuse and fail, to adopt or enforce any rule or regulation prohibiting instruction in religious education in said public schools, and has not in any other manner complied with said written demand.

Wherefore, petitioner prays this Honorable Court to issue a writ of mandamus to the Board of Education of School District Number 71, Champaign County, Illinois, ordering it to immediately adopt and enforce rules and regulations prohibiting all instruction in and teaching of religious education in all public schools in Champaign School District Number 71, Champaign County, Illinois, and in all public school houses and buildings in said district when occupied by public schools.

Vashti McCollum, *Petitioner*, Landon L. Chapman, *Attorney for Petitioner.*

[fol. 22] *Duly sworn to by Vashti McCollum. Jurat omitted in printing.*

Exhibit A attached to complaint, being pamphlet entitled Rationalism *vs.* Religious Education in the Public Schools, by Arthur G. Cromwell.

EXHIBIT "A" TO PETITION

Religious worship is a chronic disease of the imagination contracted in childhood. Religionists know this; hence their determination to force religious training in the public schools while the plastic minds of our youth absorb readily and have no means of self-determination. Religion is a philosophy founded on ancient legend, stories, and human effort to attain aid from the supernatural. It is a metaphysical philosophy wherein man attempts to analyze and harmonize human existence with a questionable as well as an unknown future existence. It is an attempt to create celestial homes for mortals ruled by celestial gods.

Religion is born of fear, ignorance, and superstition. Back in the dim paleolithic ages when the human creature was emerging from the tree-climbing, tail-hanging ape, the germ of a reasoning brain began simultaneously to develop. It was then that imaginary gods, evil spirits, etc., began to assert their influence on the lives and habits of the ancient ancestors of the human race.

[fol. 23] From the first day that the first crook realized he could hoodwink a few credulous beings into believing he had some personal tie-up with an unknown deity, religion and its unscrupulous preachers have fought to perpetuate the racket that permitted them to prey upon the innocence and credulity of the masses. The sciences of astronomy, physics, mathematics, and geography were little known or understood, and the phenomena of electric storms, floods, eclipses, earthquakes, and the like seemed to our prehistoric ancestors like some curse from an almighty power. Likewise the fall of rain, the warm glow of the sun, and the plentiful returns from the fields led them to believe that this was a reward from another all-powerful being. The constant struggle in nature between the things that hurt the human animal and those that aid him led him to believe that the gods of good and evil were themselves in everlasting conflict.

Thus, in their ignorance, fear, and superstition, our early forebears created their heavens, hells, gods, and devils, and in time developed a worship of prayer and sacrifice to satisfy or appease the gods of good and evil. And in this insane desire to appease an impossible deity all the horrors known to man have been perpetrated.

So up from the ape, the cave dweller, and the man in the mud hut has the evolution of the human species progressed until today, in the twentieth century, man stands pre-eminent in the animal kingdom. Just in proportion as the human brain developed, so did man solve the problems that confronted him. He profited by his mistakes and gained courage by his successes. We of today are proud of our ancestry. We are proud of the efforts they made and the strife they withstood to perpetuate and advance the race. Likewise, we are holding in reverent respect their mythologies and other mistaken ideas.

But respect and appreciation for the past do not in any sense obligate us to continue making the same mistakes as our forefathers or to continue worshiping their im- [fol. 24] possible gods and devils. Advancement of the human race can only be had if each generation develops and puts forth new thoughts and new ideals.

Thus we come to the education of the youth of today. The problem of the education of the youth has always been a serious one and one that has caused much difference of opinion. Today, we seem especially anxious to do the best

we can for our youth, for they never faced a more serious and disheartening future than now.

Basically, the youth of today are just as natural and normal as in any preceding generation. The fault of conditions now existing and affecting our youth is of an economic, rather than a constitutional, nature for which they should in no way be blamed.

It is true that there is a great deal of crime and lawlessness in America today. It is true that there are many young men and boys in our penal institutions. It is true that something should be done in an attempt to curb this lawlessness and enhance the ideals of a better Americanism. The problem, is how shall we go about accomplishing this? It is idle to pretend to cure children of their vices if we do not begin by liberating them from their prejudices.

There are different schools of thought. One is that religion, this is, the Christian religion, is the cure-all. The other school is rationalism. Let us examine these two schools of thought and see if we can determine the proper course to follow to aid the youth of school age.

Christianity is put forth by the religious advocates as the foundation for the moral, ethical, sociological, and spiritual development of the youth.

Christianity is the present survival of an ancient mythology founded on the stories and traditions of the Jewish people. These are found in a book now known as the Bible. It tells of the supposed birth of the human race about six thousand years ago. This book is called by the Christians "The Word of God"; yet it is filled with stories of wars of [fol. 25] hate and extermination, legends, myths, rape, murder, love, passion, contradictions, and some philosophy.

The Bible contains so much that is bad, so little that is good, and little or nothing that is true that it seems impossible that anyone who has read and studied it would recommend it as fit for our youth to read, much less use as a moral inspiration. Some religious advocates recommend the Bible and religious training in the schools for the purpose of "character building." They further recommend that "the time is now ripe for a thorough discussion of the theory of the separation of the church and state." This fundamental American principle is not merely a "theory"; it is one of the most vital propositions in our American Constitution and one that has been the primary cause of our great advance among the nations of the world.

I do not disagree about a discussion of the question; I only ask that I, or some other rationalist, be given an opportunity to defend the founders of our country and the authors of our Constitution.

America was founded just at the time when Europe was emerging from the Dark Ages, and our forefathers were determined that America should be forever free from the religious strife that had thrown European civilization back into a morass of hate and murder. They were determined that neither Christianity nor any other religion should ever rule or gain a strangle hold on American government. So to this end was written in the Constitution the law of the separation of church and state. They know that religious instruction opposes the desire to search out all the truth of life, whereas the teaching of a moral code of ethics free from the entangling chains of creed and dogma permits and encourages the student to acquire the true value of the opinions and thoughts of the world.

I also have read much of the religious history of the world, not only the Christian, but the other dead and living religions that have moved the lives and imaginations of men. Inasmuch as it is the Christian religion with which we have to deal, I shall confine my discourse to that one alone. [fol. 26] In my reading and study of the Bible and the history of the Christian religion, I have found it impossible to reconcile my understanding of morality, justice, tolerance, and the better way of life with the teachings and precepts I have found therein.

There are so many professed Christians who have never read the Bible that it is my sincere recommendation that they take it off the parlor table, brush away the dust of neglect, and read it. Owning a Bible that is never read or studied does not constitute a proper knowledge of the Christian religion. Neither do the making of pious interpretations and the repetition of a few choice selections over and over through the ages constitute a working knowledge of the Bible.

Nowhere in the New Testament can be found an instance wherein Christ spoke a kind word for the home tie or womanhood,—no, not even, to his own mother. He had no respect for the relationship of the family circle, and he held in contempt the social philosophies of his time. We do find, however, in his own various philosophies, his utter

and intense hatred for those who disagreed with him. For example, Matt. 10, 14-15:

> "And whosoever shall not receive you, nor hear your words, when ye depart out of that house or city, shake off the dust of your feet. Verily I say unto you, it shall be more tolerable for the land of Sodom and Gomorrah in the day of judgment, than for that city."

And then to go on to the 21st verse:

> "And the brother shall deliver up the brother to death, and the father the child: and the children shall rise up against their parents, and cause them to be put to death."

And again in the 34th and 35th verses:

> "Think not that I am come to send peace on earth: I came not to send peace, but a sword. For I am come to set a man at variance against his father, and the [fol. 27] daughter against her mother, and the daughter-in-law against her mother-in-law."

And the 37th verse reads:

> "He that loveth father or mother more than me is not worthy of me; and he that loveth son or daughter more than me is not worthy of me."

Here is Christ's proposition to humanity if it wants everlasting life (Matt. 10, 29):

> "And everyone that hath forsaken houses, or breathren, or sisters, or father, or mother, or wife, or children, or lands, for my name's sake, shall receive a hundredfold, and shall inherit everlasting life."

Also, these same intolerant demands may be found in Luke 7, 51-53; Luke 14, 26. In Matt. 25, 41, we find the statement:

> "Then shall he say unto them on the left hand, depart from me, ye cursed, into everlasting fire, prepared for the devil and his angels."

Read over Luke 19, 27.

It is not possible to believe that the principles and attitude, hateful as well as selfish, of Christ as here indicated could ever tend to build a better character or a better American home. Ideals such as these tend only to intensify the tendencies of selfishness, hate, and intolerance. Nowhere in the language of the human race is there found a more terrible curse than quoted in Matt. 25, 41; and Luke 19, 27. There is nothing in this antisocial attitude of Christ's to move anyone to tolerance and understanding.

Moreover, is it not wise to teach or inculcate in the plastic minds of our youth the stories of myth, filth, murder, war, and hate that so liberally fill the Bible. I urge you to take up your Bible and follow the references herein made.

Is it possible for anyone to believe that the stories of casting out devils as told in the 5th Chapter of Mark is fit for our children to believe. Would it be wise for the teach-[fol. 28] ers in our public schools to read to their students the stories contained in the Bible for the purpose of example and character building? Do we want our children to believe that out of the five million children of Israel that left Egypt for the Promised Land only two reached their goal, and then nobody wanted them? They had wandered for forty years over the Sinai Desert, suffered every hardship, and in turn had murdered and destroyed. Would anyone want our youth to believe the climax of this whole miserable story as told in Judges 19, 24-25? Do we want our children to believe that God, after all His promises to His children, made a mess of the whole affair and saved only such a dispicable character as this last man of the Exodus from Egypt?

The Books of I and II Samuel would be unreadable in any self-respecting schoolhouse. Would the story of David's collecting two hundred foreskins (I Samuel 25-27) to show King Saul what a great warrior he was be conducive to better character building among our schoolboys? Would the operation performed, as recorded in I Kings, 21, 21, be fit reading and study material for our youth?

Is it possible that anyone would consider the stories of the many deceitful romances of David fit to be assimilated by the minds of the young? Would anyone want our youth to emulate the deathbed scene of David when they come to bid adieu to this life (I Kings 1-3)? Would it be wise even

to read such stuff in our public schools? What would happen if our beautiful girls of today were used as poor Abishag was? Then there is the romance of this girl with Adonijah and its termination by the murder of Adonijah by his brother Solomon so that both the fair maiden and the throne might be his to enjoy. And there is also the rape of Tamar by her own brother Ammon as told in II Samuel 13; the homosexual act in Genesis 38, 8-9; the story of Lot and his two daughters; and hundreds of such stories of filth that could only pollute the mind of anyone reading them, much less believing them.

[fol. 29] Who wants our children to believe that God commanded General Joshua to murder every living thing in some sixty-odd cities (Numbers 31, 17-18), leaving only the unmarried maidens to be raped by the soldiers? We rationalists ask, if God could make such commands, or even sanction such foul deeds, then what worse thing could be expected from the Ruler of Hell? Would anyone who has read and understood all these vile and vicious stories want them to be taught in the public schools as "The Word of God?" Would we want to think that the typical American home life was like that of the House of David?

In Leviticus 25, 45-50, it says that God commanded human slavery. Further on in the same book 27, 27-34, God is charged with commanding human sacrifice, and in Deuteronomy 28, 53, God is said to have commanded cannibalism! Further on in II Kings 6, 26-30, it is actually practiced! Would the reading and believing of all this be conducive to better citizenship and character building?

Is it possible that any student of architecture would take any stock in Solomon's descriptions of the "Graces of the Church" as told in his "Songs?" What would one think of, when walking into a public school classroom, he heard the teacher reading the 4th verse of the 5th Song? What would be apt to happen to the morals of the class if all eight Songs were taught to the class?

Would the religious advocate advise and urge that high school and college students learn and follow the alchemy of the Israelite High Priest of the Temple rather than the scientific discoveries and accomplishments of such men as Pasteur, Hooke, and Lavoisier? Would they insist that the astronomy of Joshua be taught in preference to that of Copernicus, Galileo, Bruno, Chamberlin, Einstein, and Jeans.

Would the religionists attempt to convince our students of today that the language and stories of the Old Testament and the epistles of the New were superior in quality, fact, physics, logic, history, philosophy, language, construction, [fol. 30] and moral guidance than the profound works of Shakespeare, Newton, Freud, Darwin, Virgil, Plato, or Omar?

Would they even suggest to our students of today that the efficacy of prayer will do more for the well-being of the human race than honest toil and intelligent planning? Only a religious fanatic would suggest that the value of prayers be taught to heal the sick and save the dying rather than medical and surgical skill.

Then there is the story of the birth of Christ. Is there a man in America today who would believe his wife had an immaculate conception just because she was with child and he knew he could not have been the parent of it? The two conflicting stories of how Mary came to have this first child is proof enough that somebody was mistaken when telling the story. Mary never denied or affirmed it, nor did her husband, Joseph, but there are two genealogies given for the purpose of proving that Christ *was* the legitimate son of both Mary and Joseph and extending back to David and Abraham,—this all for the purpose of proving that Christ, the first-born, was the legitimate heir to the Judean throne made great by the names of David and Solomon.

After reading over and studying the life and works of Christ, what conclusions are our youth likely to come to? Will they believe that He was born part God with a desire to create a new religion, or will they believe that He intended actually to re-establish the Jewish kingdom? When He was murdered (in one place the Bible says He was crucified, and in another that he was hanged to a tree) a placard was hung over his head calling Him the "King of the Jews." Also it was His political, rather than his theological activities that were charged against Him.

It is true that Christ said some nice and kind things. It is equally true that He said many hard, brutal, and unkind things. Which are our students to believe true? How can a good teacher, or God, have two such divergent philosophies? Can we even successfully prove that this [fol. 31] Christ ever did live? Would the fact prove of any moral or spiritual value if we could?

Have not our students the right to demand that if God wanted them to believe this Bible to be His word, He would have written it and kept it clear of all contradictions, filth, murder, and wars of hate that it now contains? With all the confused conditions that exist today, is it wise to add further to the chaos by studying and believing an ancient Jewish mythology?

And so we could go on and on through the Old and New Testaments showing and proving that the Bible is no fit book to be read or believed in by the youth in our public schools. Nowhere in the whole book is there a place where womanhood is properly respected. From the beginning, when Adam blamed his wife for an act that he must have first started, the Biblical characters have cursed and used their women as vassals, slaves, concubines, and servants. Shall we repeal woman suffrage in America so that we may adhere closer to the teachings of the Bible?

Do we want our young people to read and believe the story of the Immaculate Conception to the end that they, too, may think they can hold sexual intercourse in a promiscuous manner and expect to get away with it by calling the inevitable result an "Immaculate Conception?" Do we think that our children will believe that this sort of thing could happen any more truly two thousand years ago than it could now?

If Christ is to be looked upon as God, or the Son of God, or Holy Ghost, or all Three in One, how are our children going to reconcile the self-destruction of God? Are they going to believe this true, or are they going to look upon Christ as a religious fanatic who deliberately plotted His own death so that He might gain the crown of a hero and the halo of a martyr? Is it possible that the religious advocates approve the idea that our school children should believe God carried out His command of human sacrifice to the extent of killing His own Son? Do they want the debasing philosophy of the remission of sin through the suffering and [fol. 32] death of another to guide the lives and actions of our youth? Is it wholesome and character building to teach our youth that sin and wrongdoing may be squared with God and man through confession and faith?

Where is this ecclesiastical heaven the Christians talk so much about? Our students and their astronomical teachers have searched the universe far and wide, their telescopic search extending out into space in all directions

for billions of light years, and yet no sign of this present home of God and the future home of His chosen few has ever been found.

There are arguments put forth by some religionists that in order to place religious training and teaching in the public schools, there should be some sort of "common" religion that would satisfy the many various faiths and religions. The history of the world is filled with the stories of long, cruel wars fought for this very purpose, and all to no avail. There would have to be a lot of juggling before the Jew would accept Christianity or the Catholics and Protestants accept only the credentials of Abraham, Moses, David and Solomon.

There may be heard great cries from the supporters of religious training that the Rationalists select only the bad parts of the Bible and refuse to recognize the good. As Rationalists we insist on knowing what parts of the Bible would be taught and who would select these parts. We want to know how the Bible would make any sense or show any signs of coherence and continuity of thought if *all* the bad and contradictory parts were expurgated. If it were to be taught as the great Truth and Word of God, then surely we should insist that better proof of its validity be given. We should want to know why the worship of, and belief in, the Jewish God is any more right than the worship of any other gods of antiquity.

We should rather that our children believe in no god than that they be subjugated by a hideous monster in the skies that creates and kills His own children. We should [fol. 33] rather that our children live wholly independent of any religious teaching and die and go back into meaningless nothing forever than to dwell with a God that has made such a mess of human affairs as this Jewish God of the Christians. We do not want them to believe in any god that creates deformed and imbecile children just to have them suffer a lifetime of sorrow and misery. We do not want our children to believe in any god that makes playthings of his children and then gets angry and drowns, burns, or otherwise kills them because their finite minds cannot comprehend the fickle caprices of an infinite tyrant. We do not want our children to obey, or consider as true, any "Word of God" that has come to use in such an unwholesome and contradictory manner as has the Bible. We do not expect them to believe that any infinite God would trust His few

chosen Words and Commandments to a few impoverished Jews in the midst of the Sinai Desert. We do not expect them to believe that only one remained to tell the story, which, incidentally, he never did. We do not expect our children to believe that these Commandments came from any true and just God, for, according to Scripture, He, Himself soon broke them all except the first one.

To date, nothing has been so silent as the voice of God, and we can in no way accept this as proof that there is a God, and that we know His ways and Commandments. When this God makes His personal appearance, we shall be happy to be present and listen. Moreover, we are not going to permit any attempts to be made to force our children to believe in any robed hypocrite who may pretend to have the password and latchkey to the heaven of eternal bliss. Nor will we allow our children to be taught that any good and just God gave away his prerogative of pardon to any church or clergyman.

The very fact that in the years gone by various attempts have been made to inculcate religious teaching in the public school; all of which ended in hopeless disagreement among [fol. 34] the Christians themselves, proves that religion cannot be a truly impartial philosophy. The various Christian faiths and sects profess to believe in the same Bible and its Biblical characters, yet they hold almost a feeling of hate toward each other. When good Catholics can enter Methodist churches, or vice-versa, with the same attitude as they would when entering their own, then it will be possible for religion to become a movement toward better social conditions. When religious groups begin to lay aside their own political ambitions and unite to promote harmonious and constructive citizenship, then will they be qualified to build character. When creeds encourage the search for truth and facts, lead where it may, then may they assume some of the responsibilities of the education of our youth. When good Christians can debate political, social, and religious issues without resorting to innuendos, unkind personalities, and slanderous epithets, then will we believe them to be worthy of teaching our children a philosophy of moral ethics.

We Rationalists are opposed to the praying to or teasing any god or gods. All humanity desires peace on earth, good will toward man, yet the world has been, and is now, overrun with wars and hate. Where is this Christian God that permits all these diabolical things to happen? Why has He

done nothing to stop them? Why has He refused to stop the slaughter and enslavement? The Christian world has buried its very face in the mire, praying and teasing their God to stop war, pestilence, and crime, yet these things continue on until they run themselves out while this God remains silent. Why has this Christian God seemed to be more in cahoots with Hell and all its demons than He has with the sons of man who worship and adore Him and pay their last mite to His shrine? Why has this God remained so silent and aloof when all His own children are praying to Him for succor? Our children will not be satisfied with any hypocritical, pious guess. They insist on proof and demonstrated facts.

In their reading of the history of the world, our children [fol. 35] have come to know that one of the main causes of much of the suffering of the world has been the wars and persecutions resulting from religious hatreds. One of the most horrible periods of human history was that of the Dark Ages when Christianity was in supreme control and the soil of Europe was saturated with the blood of innocent millions. The light of human hope and progress was all but extinguished, and the blood of brave and honest Rationalists had to flow before the light was again visible and human progress was wrested from the cramped and hateful dogmas of the church.

Promoters of religious creeds have always resented intellectual development, progress, and invention, for only in the minds of the ignorant and credulous can religious dogmas exist. And just in proportion as man advances and acquires knowledge he throws off the hooded cloak of religious superstition. Yes, suffering man, has died like the Christ between two thieves, the despot on the throne and the church behind.

With the past so vividly remembered, we of today will never consent to have our lives or those of our children relegated back again into the hands and influence of the church and its dogmas. Organized religion has always resented the supremacy of demonstrated facts and is an avowed enemy of intellectual development; it is in no wise competent to assume any responsibility in the teaching of our young.

The teachers and preachers of organized religion should realize by now that it is a losing game for them to try to hold advancing humanity's respect for their metaphysical phi-

losophy. For twenty centuries they have been compelled to spend much time and effort apologizing and explaining the foul stories and contradictory tales in the Bible, yet these same things come back on them like a black cat.

It is our belief that many of the teachers and preachers of religion know and realize that this whole Jewish mythology should be thrown out as unworthy of Twentieth Century culture, yet they lack the moral courage to expose its [fol. 36] frauds and thereby lose their jobs. It seems strange that there are any people who would rather have a cruel and vengeful god than no god, or who would rather have a doubtful prospect of reaching a heaven of peace and rest, along with a big chance of going to Hell, than to have none at all. Will they not realize that if Heaven is tempting, as ignorant and credulous victims are willing to pay into the coffers of the church, the clergy will be found ready and willing to "take up the offering."

It must be realized that today's students in science, history, art, literature, astronomy, etc., are not going to accept the Bible and its impossible stories of ancient mythologies. The youth of today are fully aware that from the crude story of the Creation in Genesis to the fantastic tales in Revelations, there is no compromise with the known facts of life. They feel embarrassed when religious zealots attempt to put this book over as "The True Word of God."

Our students also know and understand the Laws of Cause and Effect, and they just will not thank someone else, even a god, for something that their labor and brains brought forth,—the Lord's Prayer notwithstanding.

Christians speak so freely of God and God's word. It is very doubtful if they have any better conception of all this than we have, and we admit that we have not the slightest. Nothing has been so silent as "The Voice of God," and we believe that if there were a God and He did have laws, they would be known and understood by all men and everything that lives. A true God would never rely on the fallacy of man to reveal, translate, interpret, and execute his Word.

Why has it been that God is so silent? Is it because God cannot talk, or is it because there is no God? If God is all-powerful, then why does He permit Hell to exist? If God has the power to do good and does not, then why pray? If God cannot or will not remove evil from the earth, then why should we presume to believe that the next existence

[fol. 37] will be any better if ruled by Him? Our children want the proof and facts regarding all these important matters before they accept them. From the material and circumstantial evidence we now have on hand, our students will never accept the religionist's idea of God or accept Him as the First Cause. Any book such as the Bible that is literally permeated with hate and intolerance will never be accepted as a proper guide for character building. Any God that damns a finite being to an infinite Hell will never gain the love and confidence of our youth of today.

We, as Rationalists, recommend and urge the establishment and construction of a moral code of ethics suited to the time and conditions in which we are now living. Place the old Jewish Bible on your library shelf along with the other writings of antiquity and revere it only for the story it has to tell of an ancient people. Let us revel in, and make use of, our reason which religion commands us not to listen to.

Let us write a Twentieth Century Bible today, and in it let there be only those things which we know to be true and those things that will inspire all alike to gain the heights of intellectual development. Let us stop telling our youth that if they sin, some God or Christ has died to square the account. Let us show that the philosophy of the remission of sin is degrading and immoral and that we, and we alone, must be held responsible for our deeds and misdeeds.

Let us stop trying to make our young people believe that if there is a God, he is a fickle, eccentric, selfish, unreasonable, and brutal monster somewhere in the skies that silently accepts our adulations yet drowns, burns, slays, and otherwise destroys his own created children. Let us forget prayer with closed eyes and depend upon keen vision and honest toil for success and happiness in this life. Insist that our young practice toleration rather than merely talk it. Insist that there no longer be the enshrouding of budding manhood and womanhood with the cloak of religious hypoc-
[fol. 38] risy. Encourage our youth to plunge into the open sea of human knowledge and gain for themselves the truths, facts, and accomplishments of the human race. Encourage their questioning so that their minds may be as free as the winged birds of the air. Encourage their questioning, whether their search leads to God or Atheism.

Let us no longer attempt to travel the intellectually paved highways of today in an old Jewish oxcart loaded with

the tales of myth, miracles, and magic. Let us stop believing in the supernatural, knowing as we do that all things happen in nature without malice and without mercy and that no laws of any god ever could have violated the natural laws which govern the universe. Miracles simply do not happen and the idea of the supernatural is but a contradiction in terms.

Let us realize that we cannot answer the natural questions of our youth by a conglomeration of ecclesiastical phrases that mean nothing, but only confuse and bewilder. Let us admit that the Oriental mysticism and ritual used today in the Christian churches are not satisfactory substitutes for truth, facts, and logic. Let us admit that beautiful songs written and sung for the glory of God do not in any sense prove the existence of God or the immortality of our souls.

Let us explode for all time the claim that what good there is on earth is due to religious influence and training. Let it be known to all men that it is the social laws that man has found it necessary to make to protect himself from the numerous evil forces that has caused civilization to advance, and not any religious creed or law. I is the effort and struggle man has made that has advanced civilization and intellectual development, and not gods, prayers, and faith.

Rationalists justly ask what faith Christians have in their God that prompts them to pray to Him asking that He "lead us not into temptation?" Do they suspect Him of further duplicity?

Yes, let us write a modern book of moral and spiritual ethics. Fill it with the stories of man's sublime courage [fol. 39] in his struggle toward the light Tell of the ever-upward and onward climb from out the depths that man has made so that we of today may enjoy the blessings of Liberty and Freedom! Tell of the romance of history, art, science, literature, astronomy, geology, and all other things that the human creature has experienced and that has made him the supreme being of the animal world. Tell the story of the great scientists, explorers, artists, inventors, mathematicians, philosophers, and teachers that have glorified the pages of history.

Disprove the stories in ancient Scripture which proclaim as existent such creatures as gods, angels, devils, cherubims, seraphims, witches, wizards, satyrs, pygargs, unicorns, fiery

and walking serpents, cockatrices, horses of fire, leviathans, behemoths, dragons, and a talking ass.

Boldly assert in this Twentieth Centry Bible of ours that such men as Thomas Edison and Charles Steinmetz have shed more light and given more health to the human race than all the prayers, myths, and inspired revelations contained in all the books of religion.

Have our book of today tell about all the great astronomical discoveries that have put to flight the tales in Genesis. With firm hand write in the geological history of this old world of ours, even though it destroys the Adam and Eve story. Teach in this book the immutable Laws of Cause and Effect so that man may better understand the value of work and the virtue of honest association with his fellow man. Teach in this book the philosophy of living one life at a time and doing that to the very best of man's ability. Keep always in mind the rights of others and the virtues of charity, justice, sincerity, and honor.

Inasmuch as we know so little of any future existence, let our Bible be kept free of metaphysics and all its hypothetical deductions and illusions. Let our book of today confine itself to only the known facts of life and this life only, teach-
[fol. 40] ing the philosophy of living one life at a time, and living it fully each day as it comes.

Teach the idiocy of war and the lasting hate it always generates. Forbid clergymen and the like to tease any God to bless or aid the arms of any human machine that is bent on the errand of destruction. Teach man to use his ingenuity to aid and prolong life rather than to destroy it. Teach the value of human kindness rather than a selfish worship of some unknown diety; it is so much more practical for human betterment.

Let this book contain unnumbered chapters of all the great literature of the world. Let it contain divergent political, social, and religious philosophies of both ancient and modern times. Do not permit the use of innuendoes, such as pagan, heathen, atheist, infidel, nonreligious, and irreligious for the purpose of discrediting an opponent when logic is lacking. Tell in this book of the many and varied gods and religions that man has believed in and worshiped in his advance toward civilization. Tell that for many thousands of years such great gods as Osiris, Isis, Horis, Jupiter, and Odin were worshiped by many millions of people that the Christians now in their egotism call pagans. Tell of the many

gods, christs, messiahs, and what-have-you that man has worshiped in his ignorance and fear and hope. Tell of all the other living religions of today that claim many millions of followers.

Explain how these ancient gods once ruled supreme and that to question them meant death. These gods and their religions are now dead because the people who made them powerful are dead. Jupiter no longer rules from high Olympus because the ancient Greeks are dead, and Jupiter died when his last worshiper died.

In our new Twentieth Century book of moral ethics, let it be known and understood that the only supreme being is in ourselves; that after all when we are, death is not, and that when death is, we cease to be. Let it be known that [fol. 41] life is of supreme importance to each of us, for without it there is no consciousness and the knowledge of our own existence would be impossible. The heritage of life comes to us through biological processes, and the instincts that form the motive power of our being are as old as life itself. It is the harmonizing of the instincts with one's own self and his environments, opportunities, and capabilities that this new bible will show and prove to be the proper road to character building and the better way of life.

This is the kind of bible our youth will accept. It will be a moral code of ethics that will harmonize the spontaneity of youth with the serious business of life. It will teach our youth to rely on fact and logic rather than faith and prayer. It will transform "God's Footstool" into the only realm or celestial spot where human life is known to exist. It will teach them that a practical life is more worthy of existence than a theological one and that credulity shall no longer be the victim of organized religion.

This code of ethics will enshrine the ideals of Liberty and Freedom in the hearts of every American citizen, and in this religion may be found all the requisites for the building up of the best in human nature.

Let us admit that it is not the depravity of our youth that is sending so many of them to the devil nowadays. It is the economic conditions in which we find ourselves. Until recently America had frontiers and there was plenty of room for expansion. Today we have reached and crowded our borders, and congestion is all too apparent. A generation ago we could secure a job any time we desired one. As chil-

dren we could play in the streets with safety, and around almost every corner was a vacant lot in which to play all the games our childhood enthusiasm could devise. We were always within calling distance of home, and the glorious sunshine was ours to enjoy. Our childhood freedom inspired John Greenleaf Whittier to write his immortal [fol. 42] "Barefoot Boy." Childhood life was free in those days, and youth developed accordingly.

Today, our youth finds itself in an entirely new environment and a different form of civilization. Our national frontiers are gone and with them the freedom of the street and vacant lot. Packed in three-, four,- and five-room houses and flats, our children are expected to expand. Living conditions are so crowded that they are forced out-of-doors, and there they find no place to go or play. They cannot play in the streets; it is too dangerous and it is against the law. They cannot go swimming in the canal or river; it is too dangerous and it is against the law. They cannot play in the city parks; they are only for grownups to play golf in, and there is little or no place for the young to swim except a swimming pool which is closed most of the time. What playgrounds there are are so distant and so far apart that they can only accommodate a few of the children in the immediate neighborhood. Swimming, bicycle-riding, roller-skating are limited, and ice skating is possible only a few hours of the entire winter and the rinks are few and far between. In fact, every movement of the youth of today is limited and cramped from the moment he leaves school until he returns the next day. There are no natural opportunities for normal expansion, and our youth resent the fact that we, their parents, do not demand more adequate facilities for recreation and play.

Yes, it is the regimentation and limitation of our youth today that are causing their unrest. Give them freedom to play and a chance to work, marry, and live normal lives and there will be no further cause to worry.

Build at least one large playground in every city ward. Build it with an outer ring of concrete for the older girls and boys to race around on their bicycles. Just inside this build another concrete ring for the younger children to roller-skate upon, ride their carts and tricycles. Inside this area build a commodious shelter house surrounded by play [fol. 43] lots for ball, quoit, croquet, tennis, wrestling, and all the other games which young folk like to indulge in.

Keep competent men and women on the grounds at all times to guide and teach the children new games and crafts. Keep the grounds open every day of the year and from early morning until late at night.

In the wintertime flood over the play area for skating, and in the shelter house arrange classes of occupational therapy and indoor winter games.

The question of expense is raised. Today we are spending two billion dollars per year to protect ourselves from the lawlessness so prevalent. War, generated from congestion and lack of proper human development, also costs many billions per year. Let us do away with the things which go to make criminals, rather than spend money trying to reform them. Let us build more playgrounds and fewer prisons. Let us spend our tax money in preventing the development of criminals by a philosophy of ethics and a system of recreation that will cause our youth to respond to our greatest expectations.

Also, we of the older generation should put our business conditions in better order so that our children will have work and opportunity. When we stop adding great financial debts for our children to pay, then will they in turn find their place in the sun. When we stop legislating and obligating their future, then will our children assume the responsibilities that are properly theirs. When we return to them the opportunity to play, work, marry, and live normal lives, then all our present-day social problems will disappear like dew before the morning sunshine.

A free and natural life makes for good and constructive existence; but when the spontaneity of youth is cramped by human congestion and an indifferent attitude of selfish social, financial, and political agencies, nothing but a parched existence can be expected. Open up the wells of freedom and opportunity to our youth and there will be no need to suggest the opening of a Holy (?) Bible.

[fol. 44] Religion never filled an empty belly, saved a drowning man, relieved any of us of toil, prevented sickness, or overcame the democracy of death, and it will never satisfy the natural yearnings of a youthful heart.

A little more common sense and effort and less religion on our part will help and be more appreciated by our youth. Let us sweep out the cobwebs of an old religion and its creeds and face the facts and problems of today with present-day ideals and practical methods. Let us recognize and

admit our faults and face our responsibilities with courage and common sense. Let Reason be our god, and Justice our determination; and with Love as our guide, we will lead, not only our youth, but ourselves, to a better citizenship and Americanism.

Summons issued June 11, 1945, with proof of service on reverse side thereof.

SPECIAL MOTION TO QUASH PETITION AND SUMMONS AND TO DISMISS THE PETITION, ON LIMITED APPEARANCE OF THE DEFENDANT—Filed June 18, 1945

Specially limiting its appearance for the sole purpose of making this motion, and reserving the right to file other motions, including a motion to dismiss or in the alternative to strike the Defendant, by John L. Franklin, its Attorney, hereby moves to quash the petition and summons herein, and to dismiss the petition, and as grounds therefor shows:

That the petition involves an alleged public right or rights of the petitioner, or in the alternative involves alleged public rights and alleged private rights of the petitioner; that said [fol. 45] alleged public rights may only be enforced upon application by the Attorney General or the State's Attorney, on behalf of the People of the State of Illinois, and not by a private relator represented only by a private attorney, and that the petition herein involved is not so signed by or applied for by the Attorney General, the State's Attorney, or any other legal officer of the State of Illinois, and that the Court therefore does not have jurisdiction to hear the same, and the summons issued thereon is void.

This Defendant further shows that it will be prejudiced by being required to defend this petition so presented on the relation of a private citizen, as an adjudication of the rights of the Defendant will not be binding upon the public generally, and the Defendant may be exposed to harassment by additional and like suits.

Therefore, the Defendant moves that the Court quash the petition and the summons herein, and dismiss said petition.

Order entered July 2, 1945, setting hearing for July 5, 1945.

ORDER OVERRULING SPECIAL MOTION TO QUASH AND DISMISS PETITION—July 5, 1945

Order entered July 5, 1945, overruling special motion to quash the petition and summons and to dismiss the petition; rule on defendant to plead by July 30, 1945, and hearing set for August 3, 1945.

Order entered August 2, 1945, vacating order for hearing on August 3, 1945, and extending time for defendant to plead to August 10, 1945; by agreement cause set for trial on merits September 10, 1945, and by agreement cause to be heard by Circuit Judges Frank B. Leonard, Grover W. Watson and Martin E. Morthland sitting en banc; further ordered that the decision of the majority of said judges is [fol. 46] to be the decision of the court on the questions of both law and fact.

ANSWER—Filed August 9, 1945

Comes now the defendant, Board of Education of School District Number 71, Champaign County, Illinois, and for answer to the petition for mandamus heretofore filed herein, says:

1. Without admitting the legal sufficiency of said petition or that the same states any legal grounds whatsoever for the relief therein prayed, the defendant admits that the relator and her child, James Terry McCollum, are residents of Champaign School District No. 71 in Champaign County, Illinois, and are citizens of the United States and of the State of Illinois; but it expressly denies that the relator is entitled to or does bring said action on behalf of all other taxpayers similarly situated and on the contrary affirmatively alleges that she is not entitled to bring this action on behalf of anyone other than herself and as to herself only as to such alleged private rights as may be set forth in her petition, if any such there are. Defendant alleges that neither the Attorney General of the State of Illinois nor the State's Attorney of Champaign County, Illinois, nor any other legal enforcement officer of the State of Illinois has authorized or joined in the application by the relator for a writ of mandamus and further alleges that in the absence thereof relator is not entitled to the aid of this Court in enforcing or procuring the protection of any alleged rights of herself and public generally.

2. The defendant neither admits nor denies that the relator is not a believer in any religious creed or doctrine, nor [fol. 47] that she accepts no part of any Bible as true where such part is not in accord with reason; and defendant neither admits nor denies that her views and understanding concerning religion are as set forth in the publication entitled "Rationalism vs. Religious Education in the Public Schools"; as to which matters the defendant alleges that it has no knowledge thereof sufficient to form a belief and therefore prays that the Court will require strict proof. The defendant is advised by the relator's petition and therefore admits that it is relator's "desire that her own children, while they are infants under her care and control, be educated in accord with her own beliefs and understanding concerning religions, gods and bibles, which beliefs and understanding she finds, of all, to be the most intellectual, scientific, practical and honest, and the most conducive to good character and citizenship," and also that relator "desires that none of her children be indoctrinated in their infancy, in any school or by any teacher, with any of the numerous fallacious and controversial religious creeds, theories or dogmas, or with religious beliefs adverse to her own, and that they may be free from religion and any exercise thereof; and she desires corresponding freedom and protection for all other parents, regardless of creed, or their religious or anti-religious beliefs"; but defendant denies that relator has any legal right to prevent her son, James Terry McCollum, who is of the age of ten years, from exercising his own right of religious freedom including the right to choose freely what, if any, religious beliefs he shall embrace.

3. Defendant admits that there are now in full force and effect the following provisions of the Constitution of the State of Illinois:

"The general assembly shall provide a thorough and [fol. 48] efficient system of free schools, whereby all children of this state may receive a good common school education." Art. VIII, Sec. 1.

"No person shall be deprived of life, liberty or property without due process of law." Art. II, Sec. 2;

but defendant denies that any of its acts referred to in the petition violates either of said constitutional provisions.

4. Defendant admits that revenue for the establishment, support, maintenance and operation of the schools in this school district is provided by taxes levied, pursuant to the laws of the State of Illinois, upon property in the school district and that such taxes are paid by taxpayers of the district.

5. Defendant admits that it is a corporate body consisting of a president and six members, organized according to the laws of the State of Illinois.

6. Defendant admits that sites for schoolhouses have been bought and schoolhouses have been built in this school district and that defendant has established and does repair and improve the schoolhouses and furnishes them with fixtures, furniture, apparatus, libraries and fuel, and does employ and pay salaries to a superintendent and principals and teachers for said schools.

7. Defendant admits that the Illinois Revised Statutes, 1939, Chapter 122, Par. 301, provide in part as follows, and that said statute is now in full force and effect:

"Every person having custody or control of any child between the ages of seven and sixteen years, shall, annually, cause such child to attend some public or private school for the entire time during which the public school in the district [fol. 49] wherein the pupil resides is in session; Provided, that in the following cases children shall not be required to attend the public schools:

"(a) Any child attending a private or parochial school * * *;

"(b) Any child who is physically or mentally unable to attend school, * * *;

"(c) Children over fourteen years of age, who are necessarily and lawfully employed, * * *;

"(d) Any child over twelve and under fourteen years of age during the hours while in attendance at confirmation classes.

"* * *

"Any person * * * who shall fail to comply * * * shall be deemed guilty of a misdemeanor and shall be fined not less than five dollars * * *."

but defendant denies that any of its acts referred to in the petition violates any of said statutory provisions.

8. Defendant admits that James Terry McCollum is the son of the relator, is of the age of ten years, and attends one of the public schools conducted by the defendant, and defendant alleges that said child is a normal child possessed of ordinary mental faculties and capable of making reasoned choices in matters concerning his religious training.

9. Defendant admits that the first amendment to the Constitution of the United States provides:

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;"

and that Section 1 of the fourteenth amendment to the Constitution of the United States provides:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein—which shall abridge [fol. 50] the privileges or immunities of the citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

but defendant denies that any of its acts referred to in the petition violates any of said constitutional provisions, and denies that any rights of the relator, guaranteed or protected by said provisions, are abridged by the defendant.

10. Defendant admits that Article II, Section 3 of the Constitution of the State of Illinois provides:

"The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political rights, privilege or capacity on account of his religious opinions; * * *. No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship."

but defendant denies that any of its acts referred to in the petition violates any of said constitutional provisions.

11. Defendant admits that instructors in religious education come upon the school grounds and into the school

houses in this school district between the opening and closing of the school day or session and while regular secular teaching and education of some of the pupils therein is being conducted, but it denies that said instructors in religious education then and there usurp and take over the use of the property of this school district for religious education of pupils who are assembled there for secular education and it denies that for a period of thirty minutes said instructors in religious education oust the teaching of the secular education and substitute therefor instruction in re- [fol. 51] ligious education. Defendant alleges that said instructors in religious education do not interrupt or interfere with the regular secular classes or instruction there, nor do they give instruction in religious education to pupils enrolled in the public schools during the required attendance of said pupils in the public schools or the classes thereof, but such instruction in religious education is given only to pupils who have been released, excused or dismissed from the public school and instruction therein for the purpose of attending said religious education classes.

12. Defendant admits that said instructors in religious education enter all of the grade schools in this district and certain classrooms sometimes used for instruction of pupils of the fourth, fifth and sixth grades, and that James Terry McCollum is regularly enrolled and in attendance in one of said schools. Defendant admits that said practice has been maintained for a period of approximately five years, but denies that such practice constitutes an invasion of said schools and alleges that the only classrooms which are so used in connection with religious instruction are ones which are not at such times in use in connection with or required to be used in connection with regular secular instruction.

13. Defendant denies that a thirty minute period or any other period of secular education is lost each week as a result of said classes in religious education and denies that there is any permanent loss or impairment of secular instruction of any of the pupils in this district as a result of said religious education courses, and defendant denies that the period used for such religious instruction would necessarily be devoted to secular education.

[fol. 52] 14. Defendant admits that pupils receiving permission of their parents to attend the classes in religious

education are welcomed into the class and received by the instructor regardless of the denominational affiliation or lack of affiliation of the parents of such pupils, and admits that the instructors in religious education do give their instruction in a friendly manner and do attempt to make the lessons in religious education interesting, entertaining and educational to said pupils, whereby said pupils may become attracted thereto and desirous of participating therein, but it denies that the interest and attention of the pupils are diverted from their regular secular studies in said schools. Defendant has no knowledge sufficient to form a belief whether children without parental permission to participate in said religious education classes may harass and annoy their parents with requests for permission and accordingly denies the same and demands strict proof thereof. Defendant denies that the acts of the religious education instructors or of this defendant have as their ultimate intent, purpose, or effect establishing in the young and indiscriminating minds of children of credulous age a knowledge, interest or belief in a certain religion, god or bible as approved and taught by said instructors. Defendant alleges that said religious education classes have been established and maintained in the public school buildings of this district for a period of approximately five years last past; that they have been solely under the control and jurisdiction of the Champaign Council of Religious Education which is a voluntary association made up of representatives of the Jewish, Roman Catholic and Protestant faiths in this school district; that during all of said period of time the defend- [fol. 53] ant has made available to said Religious Education Council and each and every faith represented thereby the free and equal use of certain rooms of the school buildings of said district while not otherwise in use for school purposes and for a period not to exceed in the case of any particular pupil 45 minutes in one week; that none of the books, materials and supplies used in connection with said courses is furnished to public expense; that pupils are admitted to said classes in religious education only upon the written request of their parents or guardians and then only to classes conducted by the faith designated by such parents or guardians; that at all times since the said religious education classes have been inaugurated the defendant has been willing to grant its permission for the similar free and equal use of rooms in its public school buildings when

not in use for school purposes to any faith or other group, if any there be, which desires to make use of the school-rooms belonging to the defendant for instruction in the tenets of belief or unbelief of such other faith or group; and defendant alleges that no resident of this school district, other than the relator, has ever objected to the religious education classes or to the action of the defendant in permitting said religious education classes to be conducted in the classrooms of the school district during the entire period since their inauguration.

15. Defendant denies that the matters alleged in paragraph 15 of the petition are taught in the manner and form set forth in said paragraph and specifically denies that any peoples are mentioned in connection with the story of the crucifixion of Christ or that any responsibility is fixed or referred to in connection therewith, but it admits that Bible [fol. 54] stories and quotations with reference to the birth, life and death of Christ are a part of said courses in religious education.

16. Defendant denies that the matters set forth in paragraph 16 of the petition are taught in the manner and form therein set forth or that any interpretation of the Bibilical material therein referred to is made by the instructor in religious education, but it admits that stories based upon the portions of the Bible therein referred to and quotations from the Bible are read and referred to in said classes.

17. The defendant denies that it is taught in said religious education classes that "by reliance upon God as a Shepherd one may achieve fredom from want", but admits that the Twenty-third Psalm therein referred to, as well as other psalms and Biblical quotations, are read to the pupils enrolled in said religious education classes and they are encouraged to memorize such of them as they desire.

18. Defendant denies that the Bible used or referred to in any of the classes in religious education is ever called or referred to in said classes as the "King James version", but it admits that the lesson materials used in said religious education classes sometimes refer to the Bible as the "Christian's Guide Book, the Holy Writ, and the Word of God". Defendant has no knowledge sufficient to form a belief and therefore neither admits nor denies that the effect of said references may be to cause pupils enrolled in

said classes "to feel worshipful reverence for said Book and regard it with higher esteem than other books".

19. Defendant denies that the matters set forth in Paragraph 19 of the petition are taught in the manner and form therein stated.

[fol. 55] 20. Defendant denies that the matters set forth in Paragraph 20 of the petition are taught in the manner and form therein set forth; it admits that stories and quotations from the Bible are read to and referred to in said religious education classes in which reference is made to the various portions and teachings of the Bible set forth in said paragraph, but it denies that any of said matters in said paragraph 20 contained are sectarian in their nature.

21. Defendant admits that the King James version of the Bible is used in the Protestant classes in religious education and that the same is referred to and quoted from in connection with the instruction in religious education, but it denies that said Bible is referred to in said classes as the "King James version".

22. Defendant admits that classes in religious education are taught in certain classrooms of the defendant including one in which James Terry McCollum procures a portion of his secular instruction; that certain instructors in religious education are paid by the said Champaign Council of Religious Education and that other of said instructors are paid by the respective religious organizations with which they are affiliated, such as the Roman Catholic and Jewish faiths.

23. Defendant admits that one of said instructors is a former missionary and a member of a large Protestant denomination, but it denies that she serves any particular denomination or that she teaches any sectarian doctrines or tenets of belief, and as to what is established in the minds of the pupils in said religious education classes by her [fol. 56] teaching the defendant is unable to say and therefore neither admits nor denies the same, but requires strict proof thereof.

24. Defendant denies the several conclusions contained in Paragraph 24 of the petition and specifically denies that by virtue of the religious education classes conducted in the public school buildings of the defendant "an establishment

of religion is grafted onto public school education, church and state become united in the classroom, worship is established in the lives of indiscriminating infants, religion is regimented, public education is controlled and censored privately by sectarians, and pupils are taught what to believe; and proselyting is practiced among little children of rationalists and humanists and of parents belonging to denominations too small to employ their own private teachers for said public schools; and public schools become fields for private missionaries and for rivalry of religious sects, public revenue is diverted to private use, taxpayers are not all affected alike, and many persons are denied equal protection of the laws". Defendant further denies that its acts in permitting the said religious education classes to be conducted in the public school buildings of the defendant are contrary either to the first or the fourteenth amendments to the Constitution of the United States and to the provisions of the Constitution of Illinois.

25. Defendant denies that any pupil in the public schools in said district is forced to surrender or is denied the use of a classroom for his instruction by his teacher employed by the defendant, and it further denies that any pupil is forced to depart to the hallway or stairway of any building while such religious education classes are being carried on, and it further denies that any pupil in said district is de-
[fol. 57] prived of the use of any of his property or apparatus, but the defendant alleges that none of the apparatus or desks or the schoolrooms in said district belong to or are the property of the pupils or any of them and that the pupils in said school district not participating in said religious education classes are, as are all other pupils in said school district, subject to the control and direction of this defendant and meet in different classrooms at different times for the purpose of taking different classroom work and that none of said pupils has any property right or interest in the particular classroom in which he may be engaged from time to time. Defendant further denies that any pupil is deprived of the use of his property without due process of law at any time by the defendant, as alleged in said paragraph.

26. Defendant admits that the pupils not participating in the religious education classes either leave the room in which such classes are scheduled during the period there-

of or that the pupils enrolled in said classes leave the room in which the pupils not enrolled are situated for the duration of such classes, but defendant denies that in this regard the practice with reference to religious education classes is any different than the practice with reference to regular secular classes taught in connection with the curriculum of the defendant or that there is anything more obvious about the movement of the pupils enrolled in the religious education classes than that of pupils enrolled in regular secular classes and the defendant further denies each and every of the conclusions set forth in paragraph 26 of the petition.

27. Defendant denies that any child enrolled in the public schools of this school district is required or compelled [fol. 58] to remain at his desk or in the room where religious education classes are conducted and it denies that any child, if any there be, who voluntarily remains is thereby made obvious or noticeable or left silent and unattended during such religious education classes.

28. Defendant admits that in the school attended by James Terry McCollum nearly all of the pupils in the fourth, fifth and sixth grades are enrolled in the religious education courses. Defendant has no knowledge, except as it is advised by the petition, of the views of the said James Terry McCollum or of his parents and demands strict proof thereof. Defendant denies that the alleged religious difference of James Terry McCollum was noticed by his classmates because of or on the occasion of his not being enrolled in the religious education classes or that because thereof their good will and esteem for him were injured, or that he was shunned by them and denied enjoyment of their society and friendship, and that he was laughed at, hated and despised or looked upon with childish contempt by fellow pupils, as alleged in said petition. Defendant further denies the conclusions in said paragraph contained, namely, that the approval of the courses in religious education was supported mentally and morally by the supposed influence and prestige of the adult instructor in religious education appearing in their midst and assuming authority and control of their classroom in the presence of and with the ostensible approval of the secular teacher, as alleged in said petition. Defendant admits that no person has been employed to sustain the alleged views of the relator

or to expose the alleged fallacies of the religious views and doctrines taught by any of the religious instructors in said religious education courses, but the defendant alleges [fol. 59] that it has never been requested to permit such teaching.

29. Defendant denies that the said James Terry McCollum has been subjected to segregation, ostracism, ridicule, hostility and embarrassment by reason of the existence of said religious education classes or his failure to participate therein, and defendant further denies that the influence and prestige of the adult religious education instructors or the desirability of obtaining their personal attention in the presence of other children has constituted any form of social pressure or coercion upon the said James Terry McCollum or that he has been subjected to any other social pressure because of said religious education classes either within or prior to the past year, or that he is yet subjected to coercion and compulsion to seek relator's permission to participate in the religious education courses, and defendant further denies that the relator has been thereby subjected to coercion to grant her permission for his enrollment in said religious education classes, or, in the alternative, defendant alleges that if the said James Terry McCollum or the relator or either of them have been subjected to any such coercion the defendant denies that the same was in violation of the natural or constitutional rights of either of them to be free from religious worship and from the exercise of either as provided by the first and fourteenth amendments to the Constitution of the United States and by the Constitution of Illinois, as alleged in said petition.

30. Defendant admits that Article VIII, Section 3, of the Constitution of Illinois provides:

"Neither the general assembly nor any county, city, town, township, school district, or other public corporation, [fol. 60] shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose, or to help support or sustain any school, academy, seminary, college, university, or other literary or scientific institution, controlled by any church or sectarian denomination whatever; nor personal property

ever be made be the state or any such public corporation, to any church, or for any sectarian purpose."

But defendant denies that any of its acts referred to in the petition violates said constitutional provision.

31. Defendant admits that there is now in full force and effect a certain statute of the State of Illinois providing in part as follows (Illinois R. S. 1943, Chap. 122, Par. 286):

"No county, city, town, township school district or other public corporation shall make any appropriation, or pay from any school fund whatever, anything in aid of any church or sectarian purpose, or to support or sustain any school, academy, seminary, college, university or other literary or scientific institution controlled by any church or sectarian denomination whatever; nor shall any grant or donation of money, or other personal property, be made by any such corporation to any church or for any sectarian purpose."

admits that there is now in full force and effect a certain statute of the State of Illinois providing in part as follows (Ill. R. S. 1943, Chap. 122, Par. 123):

"* * *

"Tenth—To have the control and supervision of all public school houses in their district, and to grant the temporary use of them, when not occupied by schools, for religious meetings and Sunday schools, for evening schools and literary societies, and for such other meetings as the directors may deem proper; to grant the use of assembly halls and class rooms when not otherwise needed, including light, heat and attendants, for public lectures, concerts, and [fol. 61] other educational and social interests, under such provisions and control as they may see fit to impose and to conduct, or provide for the conducting of recreational, social and civic activities in the school buildings under their control."

alleges that there is now in full force and effect a certain statute of the State of Illinois providing in part as follows (Ill. R. S. 1943, Chap. 122, Par. 136):

"The board of education has all the powers of school directors, is subject to the same limitations, * * *."

but denies that any of its acts referred to in the petition violates any of said constitutional or statutory provisions.

32. Defendant admits that the instructors in religious education classes attended by pupils who have expressed preference for Protestant religious education use the version of the Bible commonly known as the King James Version and that in the classes attended by pupils whose parents have expressed written preference for Roman Catholic religious education the instructor uses the form of Bible commonly referred to as the Douay, and that none of the instructors in said religious education classes uses the Mohammedan Koran, the Zoroastrian Zend-Avesta, the Hindu Veda, or any other form of holy writ or scriptures than those recognized by the Christian and Jewish faiths, and the defendant admits that the teachings of the Christian and Jewish faiths are preferred over those relating to Allah, Ormuzd, Brahma and the gods proclaimed by other sects not represented by adherents or believers residing within this school district, and the defendant alleges that no person or pupil residing in this school district, including the relator and her son, James Terry McCollum, has ever requested that the holy writs of any of said other religions or the teachings of any of said other prophets or [fol. 62] gods be taught in the religious education courses. Defendant further denies that the alleged preference so given to the Christian and Jewish religions is in violation of any constitutional or statutory provision whatever.

33. Defendant denies that the religious instructor for pupils whose parents indicate preference for Protestant religious training teaches pupils in the light of her own secular views and training.

34. Defendant denies that the information imparted in said religious education classes may or does support the religious doctrines and tenets of one religious sect or another, but admits that they are adverse to anti-religious doctrines or theories.

35. Defendant admits that said religious instructor submits mimeographed groups of statements to the pupils in the religious education classes, as alleged in paragraph 35 of the petition, but denies that such questions call for selection among sectarian doctrines.

36. Defendant admits that said religious instructor distributes mimeographed outlines concerning "Faith", as al-

leged in paragraph 36 of the petition, but denies that said outlines contain controversial questions of a sectarian nature.

37. Defendant admits that the instructor in religious education tells religous stories and causes the children in her class to tell and write religious stories in their own words, but denies that this is required to be done in accordance with the religious education instructor's understanding of parts of the King James version of the Bible. The defendant admits that said religious education instructor selects passages from the Bible, makes comments and remarks concerning them, includes in her teaching verses from sources [fol. 63] other than the Bible, and teaches lessons involving "Faith", and that this is done in part by choosing passages from various parts of the Bible and excerpts from her own collection of religious stories and verses.

38. Defendant admits that said religious education instructor conducts examinations in which she submits to her classes certain statements on which the children are to indicate whether such statements are true or false, such statements being as set forth in paragraph 37 of the petition.

39. Defendant admits that there is now in full force and effect a certain statute of the State of Illinois providing in part as follows (Ill. R. S. 1943, Chap. 122, Par. 122):

"The board of directors shall have the following additional duties:

"• • •

"Seventh—To appoint all teachers and fix the amount of their salaries • • •

"Eighth—To direct what brancnes of study shall be taught, what textbooks and apparatus shall be used, and to enforce uniformity of textbooks in the public schools; • • •

"Ninth—To establish and keep in operation for at least eight months in each year, and longer if practicable, a sufficient number of free schools for the accommodation of all persons in the district over the age of 6 and under the age of 21 years and to secure for all such persons the right and opportunity to an equal education in such schools."

but defendant denies that any of its acts referred to in the petition violates any of said statutory provisions.

40. The defendant admits that instructors in religious education are appointed for service in said religious education classes, the amount of their salaries fixed, but not by the [fol. 64] defendant, and that the defendant does not determine what branches of study shall be taught or what text books shall be used, nor does it enforce the uniformity of text books in said religious education courses, but it denies that said religious education classes are a part of the public schools or school curriculum or public school program, or that the same are under the jurisdiction or control of the defendant, and it denies that this defendant does not secure for all children 6 to 21 years of age the right and opportunity to an equal eduea-tion in schools provided by the district and denies that it provides education for children of parents of certain religious beliefs according to their beliefs but does not provide such opportunity to the children of other religious beliefs or to the children of atheists, but defendant alleges the fact to be that such instruction in religious education is controlled (under the supervision of the Champaign Council of Religious Education) by the various faiths participating in said religious education program, and the defendant further denies that any of its acts or omissions in regard to said religious education classes violates the Federal or State constitutional provisions providing for the equal protection of the laws, as alleged in said petition.

41. The defendant admits that a Catholic priest does regularly give instruction in religious education in the junior high school building in this school district and that he gives instruction in religious education to the children of parents of his own faith and only to such children, and in doing so wears the clerical collar and clerical vest characteristic of his and certain other religions, and that this defendant does furnish a classroom for the use of said Catholic priest and the pupils under his tutelage, but the defendant denies that it furnishes other facilities for such [fol. 65] use or that its action in permitting the use of said classroom constitutes aiding or abetting the violation of any law, and also denies that the garb or dress of said Catholic priest is, except as hereinbefore set forth, any different than other civilian dress.

42. Defendant admits that there is now in full force and effect a certain statute of the State of Illinois providing in part as follows (Ill. R. S. 1943, Chap. 38, Par. 128k):

"No officer or employee of the State of Illinois, or of any political subdivision thereof, * * * shall deny or refuse to any person, on account of race, color or religion, the full and equal enjoyment of the accommodations, advantages, facilities or privileges of his office or services or of any property under his care."

but defendant denies that any of its acts referred to in the petition violates any of said statutory provision.

43. Defendant denies that the schoolhouses and property in this school district and under its control are not equally available to the relator for the teaching of the anti-religious tenets of atheism and rationalism, or that they are not available to all denominations however small, including Jehovah's Witnesses, as complained of in said petition, but defendant alleges that the schoolhouses and property of said district are, in fact, equally available to all organized religious or anti-religious groups whose teachings are consistent with good public morals and the peace and safety of the people residing in said school district.

44. Defendant admits that there is now in full force and effect a certain statute of the State of Illinois providing in part as follows (Ill. R. S. 1943, Chap. 122, Par. 297a):

"The religion or religious affiliation of any applicant [fol. 66] seeking employment either as a superintendent, principal, teacher or otherwise in the public grade or high schools of the State of Illinois, shall not be considered either as a qualification or disqualification for any such employment."

but defendant denies that any of its acts referred to in the petition violates any of said statutory provision.

45. Defendant admits that atheists or rationalists are not employed to give instruction in religious education and that persons of the religious faith of some minority denominations are not employed by the faiths participating in said religious education courses, but the defendant alleges that many so-called minority denominations are represented among the pupils and the parents thereof who have volun-

tarily elected to participate in said religious education classes during the five years last past during which said religious education classes have been available in this district and that during the past school year thirty-one different faiths or denominations were so represented.

46. Defendant admits that certain cards used for obtaining permission of parents for their children to take said religious instruction are made available through the offices of the superintendent and through the hands of principals and teachers to the pupils of the school district, but defendant denies that said cards are prepared by or at the cost of the defendant or that the handling of said cards interferes with the duties or suspends the regular work of any of the employees of the defendant, but admits that certain rooms of the school buildings of the defendant are lighted and heated and furniture and janitor services therein are furnished while the religious education classes herein referred to are conducted and that no charge is made by the defendant to [fol. 67] any person or organization on account thereof, but the defendant alleges that whatever expense is incurred for said services, if any, would nevertheless be incurred whether or not said religious education classes were conducted in said rooms, and the defendant denies that any of the taxpayers' money or money of the relator or any public funds are diverted to private use or that the property of any taxpayer is thereby taken without due process of law; and the defendant further denies that as a result thereof all taxpayers are not affected alike or that some, including the relator, are denied the equal protection of the law, or that any of the acts or omissions of this defendant are in violation of the constitutional provisions and statutory provisions above referred to. Defendant further alleges that the defendant has never made any appropriation or paid from any public fund whatever anything in aid of any church or sectarian purpose, nor has it made any grant or donation of land, money or other personal property to any church or for any sectarian purpose.

47. Defendant admits that the schools of Champaign School District No. 71 are under its control and supervision and that it has the power and duty to adopt and enforce all necessary rules and regulations for the management and government of said public schools as required by Illinois

Revised Statutes 1939, Chapter 122, par. 122, which is in part as follows:

"The board of directors shall have the following additional duties:

"Fifth—To adopt and enforce all necessary rules and regulations for the management and government of the public schools in their district."

but defendant denies that it has any duty to adopt and enforce rules and regulations prohibiting the holding of religious education classes on released school time.

[fol. 68] 48. Defendant admits that the relator has heretofore on more than one occasion protested to the superintendent of schools of the defendant against such religious education and that she did on the 8th day of June, 1945, serve upon the defendant a demand in writing by delivering a copy thereof to both D. L. Huxtable, president of said board, and Mrs. Ralph Kelly, secretary of said board, in person, in Champaign County, Illinois, and that a true and complete copy of said demand is set forth in the petition herein.

49. Defendant admits that it has not complied with said written demand and that it does refuse to adopt or enforce any rule or regulation prohibiting the conduct of religious education courses in the public school buildings under its control during the time when pupils having written consent of their parents so to do are excused and dismissed from attendance at the public schools. Defendant further alleges that under the laws of the State of Illinois it has the power and discretion to determine the hours to be spent under the jurisdiction of the teaching staff of the defendant and for what purposes pupils may be excused from attendance at classes or study rooms.

50. Wherefore, defendant prays that this Honorable Court will dismiss the petition of the relator at her cost.

Affidavit

ORDER OF INTERVENTION—September 10, 1945

Order entered September 10, 1945, granting leave to Elmer C. Bash, Alice J. Bash and Wanda I. Bash, a minor, by Elmer C. Bash, her father and next friend, to file inter-

vening petition instanter as an answer to the petition for mandamus herein and making them parties defendant herein; the said intervening petition being on file, together [fol. 69] with the reply of the plaintiff thereto, and a stipulation for trial by three judges *en banc*.

Stipulation between the parties hereto, by their respective attorneys, admitting intervening petitioners as parties defendant, for leave to plaintiffs to answer said intervening petition, or in lieu thereof to have petition for mandamus stand as answer to said intervening petition.

INTERVENING PETITION—Filed September 10, 1945

Your petitioners, Elmer C. Bash and Alice J. Bash and Wanda I. Bash, a minor, by Elmer C. Bash, her father and next friend, by leave of Court first had and obtained, respectfully file this, their intervening petition, under oath and say that:

1. Your petitioner, Elmer C. Bash, is a citizen and taxpayer residing in School District Number 71, Champaign County, Illinois. Your petitioner, Alice J. Bash, is the wife of the petitioner, Elmer C. Bash, and is a citizen residing in said school district. Both are adults and are citizens of the State of Illinois and of the United States of America and are entitled to all of the rights of such citizens.

2. Your petitioners, Elmer C. Bash and Alice J. Bash, are the parents of two children, Shirley Lee Bash, age sixteen, and Wanda I. Bash, age thirteen; said children reside with your petitioners at 512 South Highland Avenue, Champaign, Illinois, and are within said school district and are citizens of the State of Illinois and of the United States of America and are entitled to all of the rights of such citizens.

3. The intervenors are members of the University Place [fol. 70] Christian Church of Champaign, Illinois, and are desirous that the two children mentioned above shall have the opportunity for religious education in the school buildings of the defendant, Board of Education of School District Number 71, Champaign, Illinois, under the supervision of the Champaign Council of Religious Education, being the course in religious education referred to in the petition of the relator, Vashti McCollum and in the answer of said defendant.

4. Said Shirley Lee Bash has taken religious education in the seventh and eighth grades of the school attended by her. Your petitioner, the said Wanda I. Bash, has taken the course in religious education in the sixth, seventh, and eighth grades and desires during the coming school year 1945-46 to take such work in the ninth grade on released school time, in accordance with the plan heretofore in operation and effect and under the supervision of the Champaign Council of Religious Education.

5. Your petitioners assert and each of them asserts that under Article II, Section 3 of the Constitution of the State of Illinois the said Wanda I. Bash is entitled freely to attend said course in religious education during the coming school year without interference from the relator or any persons whom she purports to represent and that the Court ought not to interfere with such right of said Wanda I. Bash. Said Constitutional provision is in part as follows:

"The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity on account of his religious opinions; * * *. No person shall be required to attend or [fol. 71] support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship."

6. Your petitioner, Wanda I. Bash, asserts that under Section 1 of the fourteenth amendment to the Constitution of the United States, she is entitled to continue the course in religious education during the coming school year without interference from the relator, the persons whom she purports to represent, or this Honorable Court. Said provision of the fourteenth amendment hereinabove referred to is as follows:

"All person, born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of the citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

7. Your petitioners are of the opinion that the well-being, education, and character of the petitioner, Wanda I. Bash will be benefited by a continuation by her in said course of religious education during the coming year. Petitioners assert hereby their rights under the Constitution of the State of Illinois and the Constitution of the United States to have the said Wanda I. Bash continue her study in the course of religious education during the coming school year without interference by the relator, the persons whom she purposes to represent, or this Honorable Court.

8. For answer to the petition of the relator heretofore filed herein, these petitioners adopt and reallege as fully [fol. 72] as though set forth in words and figures herein the answer of the defendant, Board of Education of School District Number 71, Champaign County, Illinois, heretofore, to-wit, on August 9, 1945, filed in this Court.

Wherefore, your petitioners pray that upon the filing of this intervening petition with the consent of this Court, that they shall be admitted into the above entitled cause as parties defendant thereto; that they may be represented by counsel who file this petition in their behalf on the trial of this cause and in all proceedings herein, and that after hearing this Court will dismiss the petition of the relator on the merits and at the cost of said relator.

Affidavit.

REPLY TO INTERVENING PETITION—Filed September 10, 1945

Vashti McCollum, the Relator, in reply to the intervening Petition of Elmer C. Bash and Alice J. Bash and Wanda I. Bash, a minor, by Elmer C. Bash, her father and next friend, says:

1. In reply to paragraph 3 of said intervening petition, the Relator neither admits nor denies that the intervenors are members of the University Place Christian Church of Champaign, Illinois, or any other church, or that they are desirous that the two children, Shirley Lee Bash or Wanda I. Bash, shall have the opportunity for religious education in the school buildings of the defendant, said Board of Education, or under the supervision of the Champaign Council of Religious Education, and that the Relator has insufficient knowledge concerning such matters upon which to form a

belief and therefore prays that the court will require strict proof concerning them.

[fol. 73] 2. In reply to paragraph 4 of said intervening petition, the Relator neither admits nor denies that the said Shirley Lee Bash has taken religious education in the sixth, seventh or eighth grades or that she desires during the coming school year 1945-46 to take such work in the ninth grade on released school time or any other time, or in accordance with any plan heretofore in operation or effect, or under the supervision of the Champaign Council of Religious Education, and has no knowledge sufficient to form a belief thereof, and prays for strict proof.

3. In reply to paragraphs 5 and 6 of said intervening petition, Relator denies that the said Wanda I. Bash is entitled to attend said course in religious education during the coming school year without interference, when such interference is proper and lawful, from the Relator or any persons whom she represents, and further denies that the court ought not to interfere with such alleged right of the said Wanda I. Bash, all for the reasons set forth in Relator's petition for mandamus filed in this proceeding.

4. In reply to paragraph 7 of said intervening petition, Relator neither admits nor denies that said intervening petitioners, or any of them, are of the opinion that the well-being, education or character of the petitioner, Wanda I. Bash, will be benefited by a continuation by her in said course of religious education or any other religious education course during the coming school year or any other school year, and has insufficient knowledge to form a belief thereupon, and prays strict proof; and Relator further denies that the intervening petitioners have any rights under the Constitutions of the State of Illinois or of the United States to have said Wanda I. Bash continue any [fol. 74] study in any course of religious education during the coming school year or any other year in the common and public schools.

Order entered September 10, 1945, granting leave to file instanter intervening petition as answer to petition for mandamus and granting plaintiff leave to file instanter her reply to said intervening petition.

Stipulation filed September 10, 1945, to have Judges Leonard, Watson and Morthland, judges of the Sixth Judicial Circuit of Illinois, sit *en banc*.

MOTION TO DISMISS PETITION, ETC.—Filed September 13, 1945

And now at the conclusion of the evidence of the plaintiff, comes the defendant, Board of Education of School District Number 71, Champaign County, Illinois, and moves that the Court dismiss the petition and complaint of the plaintiff and relator and as grounds therefor shows:

1. The evidence introduced by the plaintiff and relator affirmatively shows that no alleged private right is involved herein but only alleged public rights, which if they exist at all, exist in favor of the public generally or tax payers generally, and that said rights can only be enforced at the instance of the Attorney General or other law enforcement officer of the State of Illinois, or may only be enforced upon the application of such an officer to the court or by such an officer joining in or signing the petition seeking such relief and that no such officer has so joined in said petition, filed said petition or signed the same.

[fol. 75] 2. It now affirmatively appears that this is a moot case so far as the same concerns any alleged violations of the constitutional guarantees of the State of Illinois or of the United States with reference to freedom of religion or worship for the reason that the plaintiff and her son have affirmatively testified that they have no religion, do not believe in any God, and are atheists and further for the reason that the plaintiff and relator has stated that she has no objection to the participation of her said child in the religious education courses which are the subject of her petition and that she has no conscientious scruples against his participation therein and for the further reason that it affirmatively appears that the plaintiff and relator and her said son, James Terry McCollum, have not been interfered with, hindered, prevented from or embarrassed in their profession, practice or exercise of any religion or religious belief, and have not been coerced or caused to profess or worship or practice any religious belief or exercise and further, that they have not been embarrassed in connection therewith.

3. It affirmatively appears that the plaintiff and relator has voluntarily permitted and directed her said child, James Terry McCollum, to participate in said religious education classes and that she has thereby waived any

ground for complaint herein and is estopped from objecting thereto.

In the alternative, the defendant moves that the Court strike from the petition each and every of the allegations with reference to the subject matter set forth in paragraphs numbered 1, 2 and 3 above.

Order entered September 14, 1945, directing filing of briefs.

[fol. 76] Order entered September 14, 1945, adjoining court until the next regular term of court in course.

Placita.

Order entered November 9, 1945, extending time for filing brief of defendant and intervenor.

Order entered January 16, 1946, adjourning court until next regular term of court in course.

Placita.

OPINION—Filed January 26, 1946

By mandamus the relator, Vashti McCollum, a tax payer, and mother of James Terry McCollum, who attended school in the fifth grade at the Dr. Howard School, seeks to prohibit the teaching of religious education in the public schools of the defendant, School District Number 71, in the school houses and buildings in said district during the hours when said public schools are regularly in session. The defendant school district includes all the schools and school buildings in the City of Champaign, Illinois.

At the opening of the trial Elmer C. Bash, a citizen and tax payer residing in said school district, and Alice J. Bash, his wife, filed an intervening petition alleging that they are the parents of two children, Shirley and Wanda, who attend school in said school district, that they are members of the University Place Christian Church in this community. They allege that they desire the said courses in religious education complained of by the relator to continue, and allege that under the First and Fourteenth Amendments to the Constitution of the United States, and under the Constitution of the State of Illinois, they have the right to [fol. 77] direct the education of their children, and pray for the dismissal of the relator's petition.

There was no objection to the filing of this petition but the relator filed a reply thereto praying strict proof, denying that said children are entitled to attend the courses of religious education, and that they have any constitutional

rights as alleged in the intervening petition: The intervening petition will not be particularly referred to hereafter because the court is of the opinion the case can be disposed of on the complaint for mandamus and the answer thereto with the evidence heard in regard to the same.

By agreement the case was heard before the three judges of the Sixth Judicial Circuit sitting en banc. Evidence was heard for four days. Many of the allegations of the complaint are admitted by the answer, but there are some disputed questions of fact arising from the pleadings. Therefore, the court will make the following:

Findings of Fact

The relator, Vashti McCollum, is a resident and tax payer in said school district, where her minor son, James Terry McCollum, has been attending public school.

The testimony fully sustains the allegations in paragraph 2 of the complaint which have been by the defendant neither admitted nor denied, that Mrs. McCollum adheres to a school of thought known as "rationalism", including Atheism, is not a believer in any religious creed or doctrine, accepts no part of any Bible as true where such part is not in accord with proved scientific facts, and her views are as set forth in her father's publication entitled "Ration- [fol. 78] alism versus Religious Education in the Public Schools," a copy of which, marked Exhibit A, is attached to the petition.

She is compelled by the compulsory school law to send her son, James Terry McCollum, to the public schools of the defendant school district.

The overwhelming weight of the evidence shows, as set forth in the answer, that religious education classes were established and maintained in the public school buildings in the City of Champaign, Illinois, for about five years last past under arrangements made between the defendant school board and a group known as "The Champaign Council of Religious Education", a voluntary association made up of the representatives of the Jewish, Roman Catholic and Protestant faiths in the school district. The religious education council was founded and organized for the purpose of combating juvenile delinquency in the community, as well as to afford, if legally possible, an opportunity for children to study religious education on released time under

circumstances hereinafter detailed. The school authorities made available to this religious education council, and all of the faiths represented thereby the free and equal use of certain rooms in the school buildings while they were not otherwise used for school purposes during the regular school hours between nine a. m. and four p. m.

Paragraph 11 of the petition, denied by the answer, asserts that instructors in religious education usurped and took over the use of the said school property for religious education of pupils, and for a period of thirty minutes during the school day ousted the teaching of the secular education provided by law, and in place thereof substituted religious education.

[fol. 79] The court finds the facts to be that instructors in religious education who are not teachers or employees of the defendant school district, but who are selected and paid by the council of religious education, have secured permission to come into the several grade schools and into the junior high school of the defendant district; that between the hours of nine a. m. and four p. m., the regular school hours of the school children, those students who have obtained the written consent of their parents therefor are released by the school authorities from their secular work, and in the grade schools for a period of thirty minutes' instruction in each week during said school hours, and forty-five minutes during each week in the junior high school, receive training in religious education. In the grade schools such instruction in religious education was given in the fourth to sixth grades, inclusive, and in the junior high school, which includes what would ordinarily be called the seventh to ninth grades inclusive.

The facts show that in the grade schools the religious education teaching was done by a Miss Mae Chapin, a former Presbyterian missionary to China, and in the Philippines, where she taught mission schools. The other instructor in the grade schools was a Mrs. Jorgensen, a former public school teacher. Both of these religious education teachers are Protestants and teach Protestant classes. By arrangement with the defendant district they were given thirty minutes in each of the fourth, fifth and sixth grade classes in the grade schools once a week to teach religious education. In the junior high school and in certain grade schools the Catholic classes are held once a week. The record shows that formerly Jewish classes were held under

[fol. 80] the supervision of the Jewish Church, but that no classes have been held by the Jewish faith during the last couple of years.

In all of the schools the arrangements are about as follows: If a majority of the pupils in the class have signed up with their parents' consent to take religious education at the beginning of the class period the secular teacher leaves the room and takes with her the pupils whose parents have not requested such religious education, to an extra room where the students study under her supervision while religious education students pursue their studies under the religious education teacher. In the case of the relator's son, James Terry McCollum, who attended the fifth grade at the Dr. Howard School last year, in the first semester, only he and a boy named Elwin Miller did not sign up for the religious education courses. They left the room at nine o'clock in the morning and went to a music room to study, under the supervision of their secular teacher, Mrs. Bessie Taylor.

At the conclusion of the thirty-minute period they returned to their fifth grade class room, and with the remainder of their class studied their regular secular subjects. In those rooms where a majority of the students had not signed up for religious education, the religious education group left the room and went to a music room or other extra class room, and pursued their religious education studies in the same way, while the majority of those classes who did not take religious education remained under the supervision of their regular secular teacher preparing their lessons until the return of the group that had been excused to take the religious courses. In the second semester James Terry McCollum was the only child in his room [fol. 81] who did not take religious education. He went out to study alone, or attended another fifth grade class, as hereinafter more fully referred to.

What it all amounts to is that the pupils who take religious education use a thirty-minute study period which otherwise would have been devoted to study for recitation in their regular lessons; that on this released time they study religious education; while those who do not take religious education simply have a thirty-minute study period while waiting for the pupils in religious education classes to rejoin them for the regular secular studies. Occasionally the secular teacher remains in the religious

education class room but takes no part whatever in the religious education. Most of the time she is with the group who do not take religious education and supervises their study. At all times the secular teacher is supervising the study of those who do not take religious education.

It is undisputed in the pleadings that pupils receiving written permission of their parents to attend the classes in religious education are welcomed into the classes and are received by the instructor, regardless of denomination, affiliation, or lack of affiliation, of the parents of such pupils; that the instructors give their religious instruction in a friendly manner; that the pupils become attracted thereto and desire to participate therein. The evidence does not sustain relator's charge that the interest and attention of such pupils is wrongly diverted from their regular secular and lawful studies in the schools, but on the contrary, the evidence shows that the courses in religious education are similar to the extracurricular activities, such as music and art, which are taken with the parents' permission in so many of our public schools today.

[fol. 82] The relator's son, James Terry McCollum, took the religious education courses for one semester in the fourth grade at the South Side School. There is no proof in the case that his work in his other studies suffered because of this. A large number of young people from the different grade schools who had taken these courses, and quite a number of other young people who had not taken religious education courses all testified in court. Their evidence shows that the religious education courses did not adversely affect their other secular studies.

The petition charges that the children harass and annoy their parents to take religious education; that the ultimate effect of these courses is to establish in the minds of these children a knowledge, interest and belief in a certain God and Bible approved and taught by the instructor. The nature of these beliefs is amplified in the petition. Except that James Terry McCollum did ask and urge his mother to be allowed to take the religious courses there is no evidence of "harassment". There is no doubt that the effect of the courses is to inspire belief in God and interest in the Bible taught.

None of the materials and supplies used in connection with said courses is furnished at public expense. The pupils in said classes in religious education are admitted

only on the written request of their parents or guardians, and then only to classes conducted by faiths designated by such parents or guardians. The defendant school district has been willing to grant its permission for the similar, free and equal use of rooms in the school buildings when not in use for school purposes, to any other faith or group which desires to make use of the school rooms belonging to [fol. 83] the defendant, for instruction in the tenets or belief or unbelief of such other faith or group.

The proof shows that all of the Protestant groups were taught by Miss Chapin and Mrs. Jorgensen; that children of some thirty-one sects, including Catholic, Jewish, and Protestant, as well as many children without any particular religious preference, took these courses. Likewise, the Catholic and Jewish Churches conducted classes under the system, although the Jewish faith had no classes the last year or two. About eighty per cent of the children in the grade schools, and about twenty per cent of the children in the junior high school took the courses last year.

On the trial an officer in the local organization of Jehovah's Witnesses testified. Thereafter he asked Mr. Mellon, the superintendent of schools of the defendant district, if they could have classes in the system. The superintendent testified that Jehovah's Witnesses or any other sect would be allowed to teach provided their teachers had proper educational qualifications, so that bad grammar, for instance, would not be taught to the pupils. A similar situation developed with reference to the Missouri Synod of the Lutheran Chuch. The evidence tends to show that during the course of the trial that group indicated it would affiliate with the Council of Religious Education.

Before any faith or other group may obtain permission from the defendant for the similar, free and equal use of rooms in the public school buildings said faith or group must make application to the superintendent of schools of said School District Number 71, who in turn will determine whether or not it is practical for said group to teach in said school system.

The court feels from all the facts in the record that [fol. 84] an honest attempt has been made and is being made to permit religious instruction to be given by qualified outside teachers of any sect to people of their own faith in the manner above outlined. The evidence shows that no

sect or religious group has ever been denied the right to use the schools in this manner. The testimony shows that sectarian differences between the sects are not taught or emphasized in the actual teaching as it is conducted in the schools. The testimony of the religious education teachers, the secular teachers who testified, and the many children, mostly from Protestant families, who either took or did not take religious education courses, is to the effect that religious education classes have fostered tolerance rather than intolerance. As will be referred to shortly, the testimony of the relator, and of her son, James Terry McCollum, stands alone and opposed to all the other evidence in the record, that any child has ever been ridiculed, shunned, embarrassed or ostracized because of his non participation in these courses, or because of his religious beliefs.

The curriculum of studies in the Protestant classes is determined by a committee of the Protestant members of the council of religious education after consultation with representatives of all the different faiths included in said council. The Jewish classes of course would deny the divinity of Jesus Christ. The teaching in the Catholic classes of course explains to Catholic pupils the teaching of the Catholic religion, and are not shared by other students who are Protestants or Jews. The teachings in the Protestant classes would undoubtedly, from the evidence, teach some doctrines that would not be accepted by the other two religions.

In the Protestant classes the evidence all indicates [fol. 85] there was no teaching of any doctrines that would be offensive to any of the Protestant groups participating in the council. From what was said in the testimony of representatives of the Quakers, the Christian Science Church, and Jehovah's Witnesses, the beliefs of these churches as expressed by the representatives would seem not to be in any way in conflict with what Miss Chapin and Mrs. Jorgensen testified was taught to all of the Protestant classes. Likewise it is true that the teaching of Protestant, Catholic and Jewish teachers in these courses would all be in conflict with the teachings of Atheists as those beliefs were testified about by the relator and her father, Mr. Cromwell. They would probably be in conflict with that branch of the Unitarian Church represented by Reverend Philip Schug, who testified on the trial that Unitarians, like the Quakers, are allowed each to determine

for himself what his belief in God is, but that one group of Unitarians shared views as to the existence of God, and the attitude toward the Biblical stories, very similar to the views entertained by the relator, Mrs. McCollum, and by her father.

There is no dispute in the evidence that the relator's son, James Terry McCollum, did ask his mother for permission to take the religious education courses. He took his fourth grade work in what is known as the "South Side School." For one semester the mother granted her permission, and the boy, James Terry McCollum, did take the religious education courses. He was transferred at the end of that year on his mother's request to another school, known as the "Dr. Howard School." The evidence shows that he asked his mother's permission which she refused, to take the religious education courses there. The evidence further shows that at the end of his fifth grade work in the [fol. 86] Dr. Howard School, and during the summer of 1945, after the lawsuit in this case was started, the relator sent her son, James Terry McCollum, to what was called a "demonstration school" at the University of Illinois, in which private school and with relator's knowledge, the boy participated in religious exercises at the beginning of school, and which included the recitation of the Lord's Prayer, the reading and explaining of passages in the Bible by the students, including James Terry, and the singing of some hymns. One of the relator's other children attended another private school where similar religious exercises were conducted.

One matter in issue between the parties is whether the relator's son, James Terry McCollum, was ostracized, ridiculed and humiliated because he did not take the religious education courses in the fifth grade. It is undisputed that during the second semester of his fifth grade work at the Dr. Howard School James Terry McCollum was the only pupil in his room who did not take the religious education courses; that he went to a room called the "music room" the first part of the second semester while the religious education courses were going on. On one occasion he was sent out into the hall and worked at a desk there. He testified that children came by and called him an Atheist, and made fun of him. It is undisputed that his mother did go to see the secular teacher to protest about his being sent out into the hall, although there is a dispute

as to whether there was any charge made by the mother that the child's religious beliefs were discussed in that connection. After that the relator's son was sent to another fifth grade class room to study.

[fol. 87] On the question of ostracism and embarrassment of the relator's son, James Terry McCollum, the great weight of the evidence is against her contention. Not a single witness corroborated him that he was ever referred to as an Atheist by the students in school. On the contrary, a number of his classmates, and at least one close friend, testified that they had never heard the word "Atheist" until the time of the lawsuit in this case; that nobody had ever made fun of Terry or said anything about his religious opinions. The testimony of these children, and their demeanor on the witness stand was convincing.

The evidence is undisputed that James Terry McCollum had difficulties with the other students in his school, but there is no evidence, except his own, that his want of religion had anything to do with these difficulties. He himself testified that he got into fights with the other children, and even spit in the faces of some of them. The secular teacher, Mrs. Taylor, testified that she consulted with the relator about Terry's problems. He had been in the South Side School for fourth grade work, and was transferred by his mother to the Dr. Howard School for fifth grade work. The secular teacher Mrs. Taylor, at Dr. Howard School testified that Mrs. McCollum gave a history of failure of Terry to adjust with other children. Many children who did not take the courses in religious education at all testified that they had never had any embarrassment of any kind because thereof. Many of the children who had taken the courses in the different schools all testified that either the taking or the failure to take religious education had made no difference in their friendships.

Without reviewing all the evidence the court believes the [fol. 88] great preponderance of the evidence shows that James Terry McCollum was not subjected to any humiliation, ridicule, ostracism or embarrassment because of his religious opinions, but that his difficulties were due to his own personality problems, entirely disconnected from any question of religion. On the witness stand he was plainly nervous and excitable. His whole demeanor on the witness stand supports the testimony of his teacher, Mrs. Bessie Taylor, that his behavior problems were not connected

with the religious controversy as set forth in the petition.

He had evidently had some difficulties in his Boy Scout work because he testified he was not going ahead with the Scout work. Mrs. Taylor admitted that she had told the relator privately that she would suggest that he be permitted to take religious education courses to see if that would help him to adjust with the other students. No one contends that she pressed this suggestion, except that relator's son, Terry, testified that she said to him and to the whole class that they ought to make the class one hundred per cent for religious education. This was denied, not only by the teacher, but by several of the other pupils in the room who were present at the time. The evidence shows clearly that the "one hundred per cent" referred to a campaign to sell war stamps or bonds in the school.

The finding of fact on this issue, therefore, will be against the relator, except in so far as there is any natural embarrassment to a child in being the only one in his room who did not take the religious education courses and who went out of the room to study by himself because of that fact.

On the issue whether the religious education courses [fol. 89] occasion an expenditure of public funds, or an appropriation of public funds, the evidence shows that no direct appropriation of any kind, or a direct expenditure of money of any kind, is made by the defendant school district for or on behalf of said religious education classes. Certain cards are used for obtaining permission of parents for their children to take said religious instruction courses, and they are made available through the offices of the superintendent of schools and through the hands of principals and teachers to the pupils of the school district. Said cards are prepared at the cost of the council of religious education. The handling and distribution of said cards does not interfere with the duties or suspend the regular secular work of the employees of the defendant.

Certain rooms of the school building used by the religious classes are lighted, heated, and furnished. Janitor service therein is furnished while the religious education classes are conducted. No charge is made by the defendant to any person or organization on account thereof. The testimony of the defendant shows that the janitor service, salaries, and so forth, would all be the same, whether the religious education courses were conducted or not. For the

most part, the expense of light and heat would be about the same whether the courses were conducted or not. The wear and tear on furniture, due to the religious education classes, so far as the evidence in this case shows, would be negligible.

On a few occasions cards which were the property of the defendant school district were used but were paid for in each instance by the council of religious education. So that it may be said that no public funds have been directly [fol. 90] appropriated by the defendant for private use. But to some slight extent the defendant has indirectly appropriated public funds for the use of these classes, by the furnishing of rooms in public school buildings, light, heat, janitor service, and so forth, as above indicated.

It is believed that the foregoing will dispose of the controverted issues of fact. We come then to the important legal question in the case. Broadly stated, that question is: Did the defendant, Board of Education of School District Number 71, have the power under the law to permit school buildings of the district to be used for teaching religious education in the manner and under the circumstances detailed above, as against the written protest and demand of the relator, a tax payer and parent in said school district?

Somewhat more narrowly stated the question is whether the teaching of religious education in the Champaign public schools in the manner shown by the evidence in this case is repugnant to the Federal and State Constitutions, and in violation of the statutes of Illinois.

The Law

One contention of the defendant board of education is that the private relator has no standing in court to bring this suit; that affecting the public rights, it can only be brought by the State's Attorney or the Attorney General. This contention raised on preliminary motion was overruled. The court still adheres to that ruling (38 C. J. 839, 890, and Illinois cases cited; *People* v. *Harris*, 203 Ill. 272).

Another contention earnestly urged by defendant school [fol. 91] board is that the relator who avowedly has no religious beliefs of her own at all is not prosecuting this suit for mandamus in good faith to protect her constitutional rights, because her conduct shows that she has permitted her child, James Terry McCollum, to attend the

courses in religious education in the schools, and even during the pendency of this suit has permitted him to attend a private school where the Lord's Prayer was recited, and readings from the Bible were given; that like the student at the University of Illinois in *North* v. *Board of Trustees*, 137 Ill. 296, at 305, no real damage has been or is being done to Mrs. McCollum in the teaching of religious education in the schools in the manner shown by the record in this case. We do not find it necessary to pass upon this contention, but prefer to rest our decision upon the question of the constitutionality and legality of the acts of the school board in permitting religious education to be taught in the schools in the manner shown by the testimony in this record.

We come then to the discussion of what relator calls her theory of the case. Her contention is that school laws become laws for *establishment of religion* where religious education in the public schools and the public school houses aids, creates and increases interest in the religion and patronage of churches whose religion is being taught. Relator contends the Champaign system of religious education violates the First and Fourteenth Amendments to the Constitution of the United States.

Amendment (I) provides: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" and we agree with relator's counsel, that the Fourteenth Amendment to the Federal Constitution, Section 1, which provides: "No State shall make or [fol. 92] enforce any law which shall abridge the privileges or immunities of citizens of the United States," extends the operation of the First Amendment to the Federal Constitution to the State of Illinois and its school subdivisions, including defendant. (*West Virginia* v. *Barnette*, 319 U. S. 624, 63 Sup. Ct. 1178, 1185.)

The provisions of the Illinois Constitution relied on are contained in Article II, Section 3, which are as follows:

"The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinions; * * * No person shall be required to attend or support any ministry or place of worship against

his consent, nor shall any preference be given by law to any religious denomination or mode of worship."

and Article VIII, Section 3, of the Illinois Constitution which provides:

"Neither the general assembly nor any * * * school district * * * shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose."

A careful reading of the Federal and State Constitutional provisions leads us to believe that one covers the same ground as the other; that if anything our own State Constitution is more specifically stringent than the Federal. Two thoughts are expressed in the constitutional provisions: First, that no political entity, including both legislatures and school boards, has power to set up a state church, requiring the citizens to pay taxes for one form of religion as distinct from any other religion or lack of religion; secondly, that no political entity has power to make any law or ordi- [fol. 93] nance, or regulation prohibiting the freedom of the exercise of religion by the people.

What do the Federal constitutional provisions mean: That "Congress shall make no law respecting an establishment of religion", and the kindred provision that: "The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed"? At the time the colonists came to this continent before the Revolution, and at the time the Federal Constitution was written, the church of the mother country, England, was known as the "established church." It was a church for whose support everybody in England was required to pay taxes, although many of the citizens of England did not believe in the doctrines of that church. Even among the colonists some particular sects had the taxing support of the various States before and after the writing of the Federal Constitution.

It seems plain that the primary object sought to be obtained in the constitutional provisions was that there should be no state church. In this sense there is no question but that the constitutional provisions sought a separation of the powers of church and state, but relator's counsel in their brief give this phrase "the separation of church and

state," a far broader meaning. They say that religion cannot be brought into the public schools without abridging the rights of every person in this country to his inalienable rights to worship as he so desires; that the realm of religion is entirely beyond the scope of the state, that the bulwark of religious training is found in the home and in a fully supported church program of child education. In their reply brief relator's counsel say: "The whole scheme provides a business of religious promotion for which money [fol. 94] may be collected and salaries paid. * * * It seems to be a mercenary business venture which must eventually clash with the law."

For the construction of the word "establishment" in the Federal Constitution we are referred by relator to *Davis v. Beason*, 133 U. S. 333, 342; 10 Sup. Ct. 299, 300. In that case the court was dealing with the validity of a law of the territory of Idaho which provided that bigamists, polygamists, and believers in plural or celestial marriages were denied the right of franchise. The Supreme Court held that this statute was constitutional.

In reply to the contention that the Mormon religion was protected by the Federal Constitution the court said:

"The first amendment to the constitution, in declaring that congress shall make no law respecting the establishment of religion or forbidding the free exercise thereof, was intended to allow every one under the jurisdiction of the United States to entertain such notions respecting his relations to his Maker and the duties they impose as may be approved by his judgment and conscience, and to exhibit his sentiments in such form of worship as he may think proper, not injurious to the equal rights of others, and to prohibit legislation for the support of any religious tenets, or the modes of worship of any sect. The oppressive measures adopted, and the cruelties and punishments inflicted by the governments of Europe for many ages, to compel parties to conform in their religious beliefs and modes of worship, to the views of the most numerous sect, and the folly of attempting in that way to control the mental operations of persons, and enforce an outward conformity to a prescribed standard, led to the adoption of the amendment in question. It was never intended or supposed that the [fol. 95] amendment could be invoked as a protection against legislation for the punishment of acts inimical to the peace, good order, and morals of society."

No case has yet reached the United States Supreme Court dealing with the question in this case. The nearest to a discussion of the question in the Federal courts that we have been able to find is in the dissenting opinion of Mr. Justice Frankfurter in *West Virginia* v. *Barnette*, 319 U. S. 624, 63 Sup. Ct. 1178, at 1195, where it is said:

"Consider the controversial issue of compulsory Bible-reading in public schools. The educational policies of the states are in great conflict over this, and the state courts are divided in their decisions on the issue whether the requirement of Bible-reading offends constitutional provisions dealing with religious freedom. The requirement of Bible-reading has been justified by various state courts as an appropriate means of inculcating ethical precepts and familiarizing pupils with the most lasting expression of great English literature. Is this Court to overthrow such variant state educational policies by denying states the right to entertain such convictions in regard to their school systems because of a belief that the King James version is in fact a sectarian text to which parents of the Catholic and Jewish faiths and some Protestant persuasions may rightly object to having their children exposed? On the other hand the religious consciences of some parents may rebel at the absence of any bible-reading in the schools. See *State of Washington ex rel. Clithero* v. *Showalter*, 284 U. S. 573, 52 Sup. Ct. 45, 76 L. Ed. 498. Or is this Court to enter the old controversy between science and religion by unduly defining the limits within which a state may experiment with its school curricula? The religious consciences of some parents may be offended by subjecting their children to the Biblical account of creation, while another state [fol. 96] may offend parents by prohibiting a teaching of biology that contradicts such Biblical account. Compare *Scopes* v. *State*, 154 Tenn. 105, 289, S. W. 363, 53 A. L. R. 821."

We have, however, in the Supreme Court of the United States direct and unmistakable authority for the proposition that the doctrine of separation of church and state does not mean that there is any conflict between *religion* and *state* in this country, or any disfavor of any kind upon religion as such. In *Pierce* v. *Society of the Sisters of the Holy Names*, 268 U. S. 510; 45 Sup. Ct. 571, at 573, where

the court held invalid a statute of Oregon requiring the children of all citizens to attend public schools, the court said:

"The fundamental theory of liberty upon which all governments in this Union repose excludes any general power of the state to standardize its children by forcing them to accept instruction from public teachers only. The child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."

Again, in *Rector, etc. Holy Trinity Church* v. *U. S.*, 143 U. S. 457, 12 Sup. Ct. 511, the court was construing a Federal statute prohibiting the importation of any alien into the United States under contract or agreement made previous to the importation of such alien to perform labor or services of any kind in the United States. Holy Trinity Church had hired an English rector to preach in their church. Although he came squarely within the language of the act the Supreme Court, examining the history of the legislation and the attitude toward religion of all public bodies in our country, found that his importation was not illegal. In the unanimous opinion of the court some of the language of Mr. Justice Brewer is as follows:

"But, beyond all these matters, no purpose of action [fol. 97] against religion can be imputed to any legislation, state or national, because this is a religious people."

The decision traces the reliance upon God, from the commission of Christopher Columbus, through the charters to the Colonies; refers to the language of the Declaration of Independence; specifically calls attention to the Constitution of Illinois of 1870: "We, the people of the State of Illinois, grateful to Almighty God for the civil, political, and religious liberty," etc.; the requirements of oaths in our courts and the repeated reference to the Deity, in the Constitution and laws of the United States, and the States.

Mr. Justice Brewer again, at page 516, says:

"There is no dissonance in these declarations. There is a universal language pervading them all, having one meaning. They affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of

private persons. They are organic utterances. They speak the voice of the entire people."

For a very full and complete history of the influence of Christianity and religion upon our national life we call attention to *Wilkerson* v. *Rome*, 152 Ga. 762, 110 S. E. 895, 20 A. L. R. 1334, which case (p. 1346, 20 A. L. R.) refers to the analysis and criticism of the *Ring* case (hereinafter referred to) by Professor Schofield of Northwestern University in his work on constitutional law. (Constitutional Law, p. 459 to 509.)

The case relied upon by relator under the Federal constitutional provision is *West Virginia* v. *Barnette*, 319 U. S. 624, 63 Sup. Ct. 1178, where the court overruling a prior ruling in the Gobitis case, held unconstitutional the requirement of the board of education of West Virginia that all pupils attending a public school shall be required to [fol. 98] salute the Flag of our country. Children of members of Jehovah's Witnesses refused to salute the Flag, and were expelled from the schools. These children were threatened with reformatory confinement as criminally inclined juveniles. The parents were prosecuted for failure to send their children to school after expulsion. Members of Jehovah's Witnesses, including the children, refused to salute the Flag because to them the Flag was an idol of worship, and the worship of any idol, under their religious beliefs, was a violation of the Law of God.

The essential part of the First Amendment to the Federal Constitution involved was that neither Congress nor the State could pass any law prohibiting the free exercise of religion. The case was not concerned at all with the question of whether the State or Nation was establishing religion. The following language (63 Sup. Ct. 1181) in the majority opinion is important in the consideration of the case at bar:

"The freedom asserted by these appellees does not bring them into collision with rights asserted by any other individual. It is such conflicts which most frequently require intervention of the State to determine where the rights of one end and those of another begin. But the refusal of these persons to participate in the ceremony does not interfere with or deny rights of others to do so. Nor is there any question in this case that their behavior is peaceable and orderly. The sole conflict is between author-

ity and rights of the individual. The State asserts power to condition access to public education on making a prescribed sign and profession and at the same time to coerce attendance by punishing both parent and child."

It may therefore be said that so far as Federal constitutional provisions are concerned, and conceding that they [fol. 99] are binding upon the State of Illinois, and on the defendant school board, there is nothing in any expression of the Federal Supreme Court that remotely indicates there is any constitutional objection to the Champaign system of religious education.

We come now to a consideration of the Constitution of Illinois and of the cases in our own Supreme Court dealing with those provisions. The relator rests her entire case for all practical purposes on the case of *People ex rel. Ring* v. *Board of Education*, 245 Ill. 334. Before taking up that case it will be well to take up the whole series of cases in the Supreme Court of Illinois, including the Ring case, to determine the legality of the defendant board's acts in the case at bar. May we again state that the Illinois Constitution insures "The free exercise and enjoyment of religious profession and worship, without discrimination"; and it provides, "No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship"? Further, it provides that no school board "shall ever make any appropriation or pay from any public fund whatever, anything in aid of any church or sectarian purpose."

One of the earliest cases under these provisions of the Constitution arose in 1879, being *Nichols* v. *School Directors*, 93 Ill. 61. Mr. Justice Sheldon who wrote the opinion was a member of the constitutional convention in 1870. It was a suit for injunction by a citizen and a tax payer within a school district to restrain the school directors from allowing the school house of the district to be used for the purpose of a religious meeting house.

The plaintiff in that case, like the relator in the case [fol. 100] at bar, stated that he was opposed to the use of a school house for these purposes, that they were contrary to the law of the land. Certainly it would seem that the use of a school house to hold religious meetings by the directors

would come perilously close to the prohibition of Article VIII, Section 3, which forbids any school district from ever making any appropriation or paying from any public fund whatever anything in aid of any church or sectarian purpose. However, the demurrer to the bill was sustained in the trial court. This was affirmed in the Supreme Court. Some of the language in that case answers the contention of the relator in this case, that the furnishing of lights and janitor service, the wear and tear on furniture, and so forth, is an illegal appropriation of school property for religious purposes. The court said:

"In what manner, from the holding of religious meetings in the school house, complainant is going to be compelled to aid in furnishing a house of worship and for holding religious meetings, as he complains in his bill, he does not show. We can only imagine that possibly, at some future time, he might as a tax-payer be made to contribute to the expense of repairs rendered necessary from wear and use of the building in the holding of religious meetings. A single holding of a religious meeting in the school house might, in that way, cause damage in some degree to the building, upon the idea that continual dropping wears away stone, but the injury would be inappreciable. As respects any individual pecuniary expense which might be in this way involved, we think that consideration may be properly disposed of under the maxim *de minimis*, etc.

"The thing contemplated by the constitutional provision first above named was a prohibition upon the legislature to pass any law by which a person should be compelled [fol. 101] without his consent to contribute to the support of any ministry or place of worship.

"Such a matter as the subject of complaint here, we do not regard as within its purview.

"Religion and religious worship are not so placed under the ban of the constitution that they may not be allowed to become the recipient of any incidental benefit whatsoever from the public bodies or authorities of the State. That instrument itself contains a provision authorizing the legislature to exempt property used for religious purposes from taxation; and thereby, the same as is complained of here, there might be indirectly imposed upon the tax-payer the burden of increased taxation, and in that manner the indirect supporting of places of worship. In the respect of

the possibility of enhanced taxation therefrom, this provision of the constitution itself is even more obnoxious to objection than this permission given by the school directors to hold religious meetings in the school house. There is no pretence that it is in any way in interference with the occupation of the building for school purposes."

In *Millard* v. *Board of Education*, 121 Ill. 297, it was held that where a school board rented the basement of a Catholic church for school purposes and taught school there from nine o'clock in the morning, on, that no tax payer could complain that just before school started; and after school ended, pupils who voluntarily desired to do so, participated in Mass, the saying of the Angelus, and other Roman Catholic services. The bill for injunction was dismissed. The lack of compulsion in participation in religious services was manifest. The court said (p. 302):

"Nor is it claimed that complainant's children are required, against his will or desire, to attend, any religious or sectarian instruction in the school. Under such circumstances, we see no ground for relief, under this part of the bill."

[fol. 102] In the case of *North* v. *Trustees*, 137 Ill. 296, mandamus was sought by a student at the University of Illinois. The rules of the University required a student to attend chapel where the Lord's Prayer was recited, and the Scriptures were read. The rules of the University also provided that the student could be excused by stating that such exercises offended his conscientious scruples, but the student refused to sign such an excuse, resting his case on the alleged illegality of these chapel exercises. He was expelled from school in 1885. Five years later he brought suit in mandamus to compel the University to re-admit him. He did not state why he wanted to be re-admitted. Mandamus was denied. After speaking briefly of the religious exercises in chapel the court said:

"Parents placing their children in colleges and universities often desire that they shall be brought under such influences. Shall a court say such a requirement is, in and of itself, a violation of said constitutional provision, merely because some one or more students attending the university may object to obeying it? More specially, should this be done when, as is here shown by the answer, the rules ex-

pressly provide that for good cause students may be excused from obedience to such regulation? We have said in construing this section of the constitution: 'Religion and religious worship are not so far placed under the ban of the constitution that they may not be allowed to become the recipients of any incidental benefit whatever from the public bodies or authorities of the State.' (*Nichols* v. *School Directors*, 93 Ill. 64.)"

In order of time we now come to *People ex rel. Ring* v. *Board of Education*, 245 Ill. 334. It is generally conceded that this case has gone further than any other case in the United States to ban the Bible from the public schools. [fol. 103] Therefore, the facts and the exact question decided in that case become important. The case arose on demurrer to a petition for mandamus, where the allegations of the petition were taken as true, and where no evidence was heard in the trial court.

The petition averred that the relators, as Vashti McCollum here, were residents and tax payers of the school district. The relators in that case, however, were members of the Roman Catholic Church. Quite a number of Catholic families were involved in the suit. The petition averred that the teachers employed by the schools read to the pupils, including the children of the Catholic relators, during school hours, portions of the King James version of the Bible; that sacred hymns were sung in concert by the pupils; that the Lord's Prayer was recited in concert by the students in those school rooms; that the children of the relators were required to rise in their seats, fold their hands and bow their heads while the Bible was read and the Lord's Prayer was recited; that under the teachings of the Catholic Church the Lord's Prayer recited in school was different from that taught as the Lord's Prayer in the Catholic Church; that the King James Version of the Bible was unacceptable to the Catholic relators and their children. It was averred that by reason of these things the relators' constitutional rights under the State and National Constitutions were violated, and prayed mandamus to stop the religious exercises.

The trial court sustained the demurrer to the petition. On writ of error the ruling of the trial court was reversed by a divided Supreme Court. Mr. Justice Dunn wrote the majority opinion. There was a vigorous dissent by Justices

[fol. 104] Hand and Cartwright. In the majority opinion it was held that the exercises, including the reading of the Bible, the singing of the hymns, and the recital of the Lord's Prayer constituted acts of worship, that they violated that part of Article II, Section 3, of the Constitution of Illinois providing: "The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed. . . . No person shall be required to attend or support any ministry or place of worship against his consent, nor shall any preference be given by law to any religious denomination or mode of worship."

After deciding this the court went further, and said that these exercises not only constituted a violation of the guarantee of freedom of worship but the exercises also violated the provision of the Constitution which prohibits the payment from any public fund of anything in aid of any sectarian purposes. At page 340 the court said:

"The public schools are supported by taxation, and if sectarian instruction should be permitted in them, the money used in their support would be used in aid of a sectarian purpose. The prohibition of such use of public funds is therefore a prohibition of the giving of sectarian instruction in the public schools."

The court then held that the reading of the Bible in the schools was sectarian instruction because the Catholics and Protestants use different versions of the Bible, because different sects of the Protestant churches, and of the Catholics and Jews place different interpretations upon the same Scripture. Finally (p. 351), in discussing whether such instruction violated the constitutional prohibition of payment from public funds in aid of sectarian purposes the majority opinion, in discussing the Kentucky and Kansas [fol. 105] decisions which upheld such instruction, used the following language which relator particularly relies upon in the case at bar:

"The Kentucky and Kansas decisions seem to consider the fact that the children of the complainants were not compelled to join in the exercises as affecting the question in some way. That suggestion seems to us to concede the position of the plaintiffs in error. The exclusion of a pupil

from this part of the school exercises in which the rest of the school joins, separates him from his fellows, puts him in a class by himself, deprives him of his equality with the other pupils, subjects him to a religious stigma and places him at a disadvantage in the school, which the law never contemplated. All this is because of his religious belief. If the instruction or exercise is such that certain of the pupils must be excused from it because it is hostile to their or their parents' religious belief, then such instruction or exercise is sectarian and forbidden by the constitution."

The above language was not necessary to the decision of that case. The Catholic children under the allegations of the petition which were admitted by the demurrer were required to attend the school and to stand with bowed heads while the Lord's Prayer was recited and the King James version of the Scriptures was read. Moreover, it may be said in the case at bar that the conclusion reached by the majority opinion that the exclusion of a pupil from religious exercises in which the rest of the school attends, subjects him to religious stigma, and so forth, is a matter that is covered by the actual testimony in the case at bar. As we have found above, and as a reading of the record in this case convinces us, James Terry McCollum was not subject to religious stigma and placed at a disadvantage in the school because of his non religious beliefs.

[fol. 106] Justice Cartwright, who joined in the dissenting opinion, is recognized as one of the ablest judges who ever sat in the Supreme Court of Illinois. He with Justice Hand called attention to the fact in the dissenting opinion that the great weight of authority everywhere was contrary to this case, that the decision itself in spirit was entirely opposed to the other cases in the Supreme Court of Illinois which we have referred to above, before that time.

Before discussing the *Ring* case further we take up the cases that have arisen in the Supreme Court since the *Ring* case, dealing with the same constitutional provisions. Just three years later, in the case of *Reichwald* v. *Catholic Bishop*, 258 Ill. 44, a tax payer in Cook County filed a bill in equity to restrain the board of commissioners of Cook County from permitting the Catholic Bishop and archbishop to erect a Catholic chapel to be used for religious

worship and funeral services on the Cook County poor farm which was owned by the county.

The bill showed that the Catholic Bishop had offered to erect this chapel and to maintain it at his own expense, to provide Catholic services and Catholic burial for those of the poor who used the poor farm, and the title to the buildings was to be in Cook County. It is interesting to note that Mr. Justice Dunn, who wrote the majority opinion, in the *Ring* case, wrote the opinion in this case. It was held that the county had full power to permit the use of the building for religious worship and funeral services on property of the county, as long as Cook County was not obligated financially to pay toward such religious worship or services.

At page 48 of the opinion is the following language which [fol. 107] we feel is applicable to the Champaign plan of religious education:

"No one can be obliged to attend or to contribute, but no one has a right to insist that the services shall not be held. The man of no religion has a right to act in accordance with his lack of religion, but no right to insist that others shall have no religion."

Then the case of *Nichols* v. *School Directors*, 93 Ill. 61, is again quoted with approval, as justifying the decision in the *Reichwald* case.

In *Dunn* v. *The Chicago Industrial School*, 280 Ill. 613, a tax payer in Cook County filed a bill to enjoin the payment of county funds to the Chicago Industrial School for Girls, for the care of delinquent girls sent there by the juvenile court of Cook County. This school was maintained by the Roman Catholic Church. At this school religious training was given, and religious services were held, for those girls who were there committed. If a narrow view were taken of the constitutional prohibition it would seem that these acts were certainly in violation of Article VIII, Section 3, of the Illinois Constitution, prohibiting the appropriation of money in aid of a sectarian purpose, but Justice Cartwright in delivering the unanimous decision of the court held that where the expense of maintaining the wards of the state who espoused the Catholic belief, in this Industrial School, was less than the cost of maintaining juvenile delinquents at the state institutions, there

was no appropriation of money in aid of sectarian purposes. In construing the provisions of the Illinois Constitution involved in this case he said, at page 616:

"The people not only did not declare hostility to religion but regarded its teachings and practices as a public benefit which might be equal to the payment of taxes, and by [fol. 108] section 3 of article 9 of the constitution provided that property used exclusively for religious purposes may be exempted from the burden of taxation, and the General Assembly, by virtue of that provision, has declared such exemption. In harmony with the provision for the free exercise and enjoyment of religious freedom and worship, the General Assembly in the Juvenile Court act provided by section 17, that 'the court in committing children shall place them as far as practicable in the care and custody of some individual holding the same religious belief as the parents of said child, or with some association which is controlled by persons of like religious faith of the parents of said child.'

"Not only have the people, by the constitution and by their representatives in the General Assembly, recognized and provided for the enjoyment of religious liberty, but the court has not adopted any rule antagonistic thereto. In *Nichols* v. *School Directors,* 93 Ill. 61, the Court said: 'Religion and religious worship are not so placed under the ban of the constitution that they may not be allowed to become the recipients of any incidental benefit whatsoever from the public bodies or authorities of the State.' "

In the later case of *St. Hedwig's Industrial School for Girls* v. *Cook County,* 289 Ill. 432, a very similar case, St. Hedwig's and the Polish Manual Training School for Boys, which were run and maintained by religious organizations, sued Cook County for unpaid tuition and care of dependent children committed to these schools by the juvenile court of Chicago. The court unanimously held that these payments were not in violation of Section 3, Article VIII of the Constitution, citing the *Dunn* case in 280 Illinois, as well as other cases.

We now come back to the *Ring* case. Were the *Ring* case presented to us as a matter of first impression we would [fol. 109] have arrived at the same conclusion as did our Supreme Court, for under the compulsion exerted by the

public school teachers in that case on the Catholic pupils, we would agree that their constitutional rights were violated. However, as authority for a decision on the facts in the case at bar, it is peculiar that the *Ring* case is not mentioned in any of the later decisions by the Supreme Court of Illinois construing religious freedom clauses of our Constitution. Then too, the language in the later opinions would tend to narrow and circumscribe what was said in the *Ring* case. The authority of the *Ring* case is weakened by the fact that it goes farther than any other case in the United States in its language. The actual holding of the case is opposed to the great weight of authority in the United States. We shall not attempt to discuss the facts or holdings in cases from other jurisdictions because we are bound by the decisions of our own Supreme Court, but the decisions in the United States generally, and the trend of authority since the time of the *Ring* case may be found under the following annotations: 5 A. L. R. 866, 20 A. L. R. 1351, 31 A. L. R. 1125, 57 A. L. R. 195, 141 A. L. R. 1145.

The relator particularly relies upon *State* v. *Weedman*, 55 S. Dak. 343, 226 N. W. 348, 349, 354, and *State* v. *Frazier*, 102 Wash. 309, 173 Pac. 35. In the *Weedman* case the facts were almost exactly like those in the *Ring* case. Fifteen Catholic children were expelled because they would not attend opening exercises required by the school, where the Lord's Prayer was said, and the Bible read. Mandamus to compel the children to be readmitted to the school was allowed.

In *State* v. *Frazier* there was a state law purporting [fol. 110] to provide that the school should furnish written outlines on the Bible and give examination and school credits in Bible reading. This was held to be violative of the constitutional provision that no public money or property should be appropriated for or applied to any religious exercises or instruction. We pause to point out there was an element of actual compulsion on the school children to participate in religious exercises abhorrent to children and their parents in the *Ring* case and in every other case where religious instruction in the schools has been condemned. That compulsion does not exist in the case at bar.

Counsel for relator rely upon the dictum in the *Ring* case, that compulsion is exercised because James Terry

is not excused from school but is required to do his other school work, while his schoolmates were taking the courses in religious education. The fact remains, however, that James Terry McCollum was not required to take the religious education courses and he was sent away from the room where the exercises were going on, so there could be no claim that any actual compulsion was used against him.

We have in the case at bar evidence as to what the effect of these religious education courses has been in the school system itself. James Terry's case was the extreme case in the second semester of the fifth grade, when he was the only one in his room who did not take the religious education courses. The overall picture is that 20 out of 100 in the grade schools did not take the courses and 80 per cent in the junior high school have not taken the courses.

There was a full and representative group of students from the grade schools and from junior high school, whose testimony could not help but impress favorably the trial [fol. 111] judges, as to the beneficial results of religious education, and the freedom from intolerance and the other evils that are mentioned in the *Ring* case, and in those courts who frown upon Bible reading, and so forth, in the schools.

There is another reason why it seems to us that the case at bar is entirely distinguishable from the *Ring* case. As pointed out in the annotations in 5 A. L. R. 866, and the other volumes, the question of what is legal or illegal in the schools as constituting sectarianism divides itself into a number of different categories, which are listed as follows:

(1) Mere reading of the Bible;

(2) Reading Bible and saying Lord's Prayer;

(3) Teaching Ten Commandments;

(4) Reading Bible and singing hymns;

(5) Saying prayers;

(6) Use of Bible as textbook;

(7) Use of textbook founded on Bible.

In the *Ring* case there was a combination of prayer, Bible reading, and the singing of hymns. In the cases from other states which we have examined there is almost always a similar combination, plus the fact that an earnest sincere minority of religious people, usually Catholics or

Jews were compelled to join in religious services that were abhor-ent to them. In the case at bar no prayers were offered in any of the religious classes, and no hymns were sung. The Bible was used as a text book and outlines and other reading material founded on the Bible were taught.

We state again for emphasis that so far as the Bible was read or taught in the schools, there seems to have been a sincere effort to present by Protestant teachers to pupils of some thirty-one different Protestant sects, [fol. 112] the broad, moral truths of the Bible, excluding from the teaching as far as possible, controversial matter that divides the sects. Practically nothing was asked of Father Higgins or of Rabbi Golden as to the content of the teaching of the Catholic and Jewish students, but at least there is nothing to indicate that the teaching of the Catholic and Jewish students inculcated any antagonism toward Protestants or others.

In this situation the language from two of the cases relied upon by the relator it seems to us is particularly in point as sustaining the legality of what is referred to as the Champaign system of religious education. In the case of *Village of South Holland* v. *Stein*, 373 Ill. 472; and *City of Blue Island* v. *Kozul*, 379 Ill. 511, where discriminatory treatment of Jehovah's Witnesses was condemned as unconstitutional, and where the able counsel representing the relator in this case appeared in those cases, the court said, quoting from *City of Blue Island* v. *Kozul*, 379 Ill. 511, at 521:

"The fact that when so applied the ordinance is unconstitutional does not determine that it would be invalid for that reason when applied to other and different facts."

So in the case at bar we feel that the illegal conduct condemned in the *Ring* case does not determine that the conduct of the classes as shown by the record in this case violates the constitutional provisions, State or Federal under the other and different facts in the case at bar.

From the earliest times it has been held that school boards and school directors are vested with wide discretion in their conduct of the schools, subject, however, to constitutional and statutory limitations on their powers. [fol. 113] (*Board of School Inspectors* v. *Grove*, 20 Ill. 526; *The Trustees of Schools* v. *People ex rel. Van Allen*, 87 Ill.

303; *People ex rel.* v. *City of Chicago*, 278 Ill. 318; *Segar* v. *Board of Education*, 317 Ill. 418.)

The recent case of *People ex rel. Lewis* v. *Graves*, 245 N. Y. 195, 156 N. E. 663, affirming 215 N. Y. Supp. 632, and 219 App. Div. 233, 219 N. Y. Supp. 189, holds that the school authorities under very similar constitutional provisions as ours, may release students during school time to attend religious education classes in their own churches. This of course does not meet the relator's objection to the use of the school buildings themselves, but no case has been cited to us where the purely voluntary participation in religious education classes, no part of the expense of which is borne by the tax payers, has been condemned.

Again applying the language of the Supreme Court of the United States in *West Virginia* v. *Barnette*, 319 U. S. 624, 63 Sup. Ct. 1178, at 1181, the freedom asserted by the relator and by James Terry McCollum, to have religious education in these voluntary classes excluded from the schools of Champaign does bring the relator and her son into collision with the rights asserted by the intervenors who are representative of eighty per cent of the children attending the grade schools, and a substantial per cent of those attending junior high school.

Only one witness with children in the local schools, besides the relator, namely, Mr. Adams, expressed any dissatisfaction with this program. We freely concede that if James Terry McCollum stood alone and were compelled to participate in religious exercises to which he had conscientious [fol. 114] objection it would make no difference if there were a million people on the other side, but in our view of the matter there has been no such compulsion visited upon him.

The evidence on the trial indicated there are approximately 1,850 school systems in 46 states of this country that have some form of religious education in the school system. We have not been favored with the details—and they are perhaps not important—in other states. We suppose that this includes systems where the children, as in New York, are released from the school buildings to go to their church buildings for religious instruction, and therefore do not present the same problem that we have in the case at bar.

Believing as we do that no constitutional or statutory rights of the relator and her son, James Terry McCollum, have been violated by the Champaign system of religious

education as it is conducted, according to the testimony in this record, the petition for mandamus will be denied.

The docket orders in this case, therefore, will be:

Evidence and arguments having been heard, briefs having been considered, findings of fact and of law as set forth in written opinion on file; and finding that petition of relator for mandamus should be denied; judgment in favor of defendant in bar of the action and petition of the relator, and writ of mandamus denied and judgment for costs against the relator.

Martin E. Morthland, Grover W. Watson, Frank B. Leonard, Trial Judges.

ORDER DENYING PETITION FOR MANDAMUS—January 26, 1946

Order entered January 26, 1946, denying petition for [fol. 115] mandamus and judgment entered in favor of the defendant, relator to pay all costs.

Affidavit of mailing notice of appeal and praecipe for record, filed March 22, 1946.

[Title omitted]

NOTICE OF APPEAL—Filed March 22, 1946

To: Board of Education of School District Number 71, Champaign County, Illinois, Defendants-Appellees; and Elmer C. Bash and Alice J. Bash, and Wanda I. Bash, a minor, by Elmer C. Bash, her father and next friend, Intervenors:

Please take notice that plaintiff in the above-entitled [fol. 116] cause hereby appeals to the Supreme Court of Illinois from the order entered in this case by the Circuit Court of Champaign County on the 26th day of January, 1946, denying the petition for mandamus in this cause.

Plaintiff prays that the Supreme Court of Illinois will reverse the order entered upon January 26, 1946, and either grant a writ of mandamus in accordance with the prayer of

the plaintiff in the petition filed in this cause or, in the alternative, that the Supreme Court remand this cause to the Circuit Court of Champaign County, Illinois, with directions to enter its writ of mandamus as so prayed, or for such other relief as may be warranted.

The People of the State of Illinois, ex rel Vashti McCollum, By Walter F. Dodd, Attorney for Plaintiff.

Walter F. Dodd, Attorney at Law, 30 N. La Salle St., Chicago, Illinois.

Praecipe for complete record filed March 22, 1946.

Proceedings had on the hearing on motion of defendant to quash petition, with argument of counsel and statement by the court of its reasons for overruling said motion. (Not abstracted.)

REPORT OF PROCEEDINGS

Report of proceedings at the trial hereof before Honorable Frank B. Leonard, Martin E. Morthland and Grover W. Watson, Judges of the Circuit Court of the Sixth Judicial District, sitting *en banc*, commencing September 10, 1945.

[fol. 117] Present: Mr. Landon L. Chapman, on behalf of Plaintiff; Messrs. Meyer & Franklin, Mr. John L. Franklin, of counsel, on behalf of defendant; Messrs. Eckert & Peterson, Mr. Abe R. Peterson and Mr. Owen Rall, of counsel, on behalf of intervenors.

Opening statement on behalf of relator.
Opening statement on behalf of defendant.
Opening statement on behalf of intervenors.

MAE CHAPIN, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Miss Mae Chapin, 616 West Church, Champaign, Illinois. I am a teacher in religious education in the public schools in the city of Champaign. I am not employed

by the schools. I have been teaching religion in the schools of the city of Champaign for three years. Before that I was a missionary teacher in Hanoi China, Manila and the Philippines. I was in China from 1913 to 1925, and from 1927 to 1935. Then I was a member of the Philippine Mission until I resigned March 31, 1943. Then I was employed by the American Presbyterian Foreign Missionary Board, whose headquarters are in New York. In the Philippines I was employed by the same parties.

At present I direct the work of the religious education classes in the public schools in Champaign. I also teach. There are about 35 religious education classes in the public schools in the city of Champaign. They are from grade 4 through grade 9, three years in elementary and three years [fol. 118] in junior high. Last year I taught 19 of them. Mrs. Jorgensen taught 12. There were also representatives of the Catholic group. Father Higgins taught one of the Catholic classes. I believe the other was Father O'Connor. They taught different classes, different schools. I know they taught at Columbia School, the South Side school and the junior high school. I arranged for the Catholic teachers, the time for them to teach, but the instruction is left to the Catholic group. I made arrangements for them with the various principals of the public schools. This was done by conversation with the principal usually at the school. I did not go during the time of day that they were teaching; I went before school. To my recollection I never interviewed them during school hours.

The principal of the Columbia School was Miss Aye. I do not recall exactly when I made the arrangement with her. I did not have much conversation with her at the time I made the arrangement because she was used to the program. I cannot recollect the conversation with her. I do not recall any conversation with any principal about arrangements to teach religion in the public schools. All I know is that I took the course to them and asked the time that would best suit them, because they have their other classes and this religious education takes part in their program after the others are arranged. In arranging for this time I did not take into consideration the convenience of the religious teachers.

I had six classes at the Dr. Howard school. Monday morning at 9 o'clock I taught one of the sixth grade classes. Last semester when I would appear at 9 o'clock in the morn-

ing I would find about 5 or 6 students in the class room out of about 28 in the class. No children left the class room after [fol. 119] I came. None came in after I came until I was going at 9:30. Then I went to another sixth grade class room. The first semester 5 or 6 were out of that room, leaving about 26. I think those who left went to the office with their teacher. That is the procedure that I followed throughout the day at the Dr. Howard school.

When I entered the class room for the teaching of religious education the secular teacher in some rooms took the pupils to the library. Some of the teachers stayed in the room while I was teaching. They did not participate in the religious education with me.

I am employed by the Champaign Council of Religious Education, composed of the different denominations and different faiths. Included therein are the Presbyterian, the Baptists, Methodists, United Brethren, Christian, Episcopalian and Congregationalists. I do not remember all of them.

I was first spoken to about employment by the director, then I met the personnel of the committee. The director at that time was Mrs. L. E. Workman. She employed me. My contract was renewed each year, including 1945-1946. I consulted with the personnel committee with reference to renewing my contract. That committee refers it to the council to vote on it. The personnel committee this year is composed of Rev. A. Ray Cartlidge and Mr. E. O. Bottenfield. I think the conversation with reference to renewing my contract for 1945 and 1946 took place at a religious education council meeting at the Baptist church. This council is composed of ministers and laymen interested in religious education among the children of the schools. They are not members of the school board. I am not aware if they are public officials.

Q. Did you understand you were being employed by both public officials and private individuals?

A. Private, by this organization.

[fol. 120] Q. Private Persons?

A. Yes, sir.

Mr. Franklin: I object to that as calling for a legal conclusion.

The Court: The objection is sustained.

The Witness: (Continuing.) I do not know if this religious council is a corporation. They had a verbal contract

with me. I am paid by the treasurer of the council by check written on the Council of Religious Education. I am not employed by the school board.

Q. How much salary do they pay you?

Mr. Franklin: Objected to as immaterial.

The Court: I will let her answer.

The Witness: (Continuing.) I received $90 a month and I consider it a service. I receive no other compensation.

The Protestant religious education teachers are under my supervision. I counsel with the curriculum committee as to what we shall teach, then I talk over with the other teachers what material we shall use. The curriculum committee is composed of Mrs. Peter Auten and Mrs. L. E. Workman. Mrs. Workman is at present a teacher in the Urbana high school. My employment has nothing to do with her service there in the high school. Mrs. Auten is a housewife, not engaged in public work of any kind. She is affiliated with the Presbyterian church. Mrs. Workman is affiliated with the Congregational. They consult with me with reference to the curriculum and the material which I teach. They approve of it. They do not specially submit it to anyone else for approval.

James Terry McCollum, the son of the relator, did not attend any of the classes that I taught. He was not a member of any class in the Dr. Howard School to whom I taught religious education. Last year I taught two fifth grade classes in the Dr. Howard School. He did not attend either [fol. 121] of them. I do not know if he attended them during secular teaching. I know him by sight. I had seen him around the school. There was nothing that attracted my attention to him. Nobody pointed him out to me especially. I learned his name one morning when I was in the class room before school. A little boy brought in some flowers to the secular teacher, Mrs. Taylor, and I learned that his name was Terry. I do not remember if he ever left the class room when I came to teach religious education.

I did not have 100 per cent in Mrs. Taylor's class. The first semester several of them did not attend. The second semester most of them did. I do not have my figures here. In all my 19 classes there must have been about 2 where there was 100 per cent attendance. In those two classes the children were affiliated with practically all denominations. There were no Catholic children nor Jewish chil-

dren in those classes. There were Christian Scientists. No Seventh Day Adventists. I do not know if there were any affiliated with Moody Bible Institute. I did not have the denominations. I had some 4-Square Gospel boys and girls. I do not remember having any Jehovah's Witnesses.

That was not indicated on the card that they brought to me. The cards their parents signed simply said interdenominational, Protestant, Catholic or Jews, and on the first day when they registered the registration cards told us what denomination they belonged to. When I was teaching in these various classes a great many of them did not belong to the same church that I did, in fact, there were not so many Presbyterians. The school teachers distributed the cards for the parents to sign. I delivered the cards to the school teachers. In some cases the school teachers returned the signed cards to me, and in some cases [fol. 122] we obtained them directly from the pupils. None of the school teachers made any inquiry as to what parents had signed slips. The school teachers did not inquire nor give me any aid or assistance in the matter of obtaining 100 per cent attendance.

I do not know with what church Mrs. Taylor was affiliated.

In my teachings I taught with reference to Jesus Christ. I taught with reference to God. I probably did teach them the relationship between God and Jesus Christ. I taught that Jesus is the son of God, that Mary is the mother of Jesus, that Jesus had what you might call a foster father, Joseph. I don't know if you want to call it a foster father. We did not teach who Jesus' family was. We just said Mary and Joseph.

In speaking of Jesus I used the pronoun "he". We taught that Joseph and Mary fled with Jesus into Egypt, it is a Bible fact. They so fled until the death of Herod. In my teaching I referred to him as Jesus Christ. They were both names of this male child. I did not have to enter into any reason for his having two names. I did not have to with my pupils. I did not distinguish any difference between Jesus as a person and Christ as a person. When I speak of Christ or Christ Jesus or Jesus Christ I mean the same person.

I taught that he performed miracles. I did not explain it as being because of some relationship with God. I taught the children how he died. I taught them the cause of his death was crucifixion by the Romans.

During the first year I taught I might have given quite a bit of attention to his various trials, not this year nor last year. We had a different program and discussed it in a different way. I did not teach it differently in different years.

[fol. 123] Q. Then what did you mean it was different?

A. I mean the outline.

Mr. Franklin: I object to that, she is his witness and he has no right to cross-examine her.

The Court: I do not think it is improper. The objection is overruled.

The Witness: (Continuing.) The emphasis may have been different, the facts remain the same: I did not teach last year the trials of Jesus. I may have taught them several years ago but not the last two or three years. The document entitled "The Life of Jesus" is one of my outlines. That is Relator's Exhibit 1 for identification. The third page of Relator's Exhibit 1 for identification is not one of the outlines that I used this year. I might have used it two years ago. In the use of page 4 I do not think we ever got that far, referring to the trials of Jesus, but I just gave this to them. I would not say that these outlines were approved by me and my sponsors in teaching religious education. I think somebody else saw them, I do not remember who.

Q. I direct your attention to the second trial; that resulting in Jesus being condemned and being turned over to the Jews to crucify. Is that what you teach?

A. I think I need to explain that. They did not crucify him but Pilate washed his hands and said, "I will have nothing to do with it." But the Roman law was that no religious sect could crucify Jesus; it must be done by the Roman soldiers themselves.

I taught that the Jews did not crucify Jesus. I used this as typical Bible content. I taught them that various things happened at these trials. Nothing especially happened at the first trial. Caiaphas, the high priest, was not at the first trial. He was at the second one. I taught that Jesus was there accused by his enemies.

[fol. 124] Mr. Franklin: We object to interrogating this witness as to her knowledge or belief with reference to Bible matters.

Mr. Chapman: I am referring only to what she teaches.

The Court: That is what I understood.

Mr. Franklin: We object to the form of the question. He does not ask the witness that.

Mr. Chapman: The Court will observe that this is a hostile witness.

The Court: I will permit him to interrogate fully as to what she taught, not as to her personal belief.

Mr. Franklin: We do not join in the assumption that the witness is hostile.

The Court: I am not up to that question yet.

The Witness: (Continuing.) I do not think I spoke ever of the Jews as enemies; that was several years ago and I do not remember.

Q. Will you tell just what you did teach with reference to who his enemies were?

Mr. Franklin: I object to that. She said it refers to them as enemies. She does not believe she refers to them otherwise.

The Court: Is there anything you want to add to that answer, Miss Chapin?

A. I think if you read the Bible you will know them.

Mr. Chapman: Q. I want to know what you teach. Don't you teach that the Jews were the enemies of Christ?

A. They were hostile to Jesus in many ways.

Mr. Franklin: I move to strike the answer as not responsive.

The Court: The question was, is that what you taught. Or is that what you believe?

A. That is my belief.

[fol. 125] The Court: I will strike that answer as not material.

Q. Did you teach the children that the Jews were afraid of Jesus?

A. Some of them were.

Q. How about the others?

A. Some of them were not.

Mr. Franklin: I move to strike the answer as not responsive. The answer purports to tell who were and who were not afraid of Jews. The question was whether she

taught that some of the Jews were friends or enemies of Jesus.

The Court: Let the answer stand subject to explanation, perhaps, on cross-examination. Only counsel who asks a question can object to the answer as not being responsive.

Mr. Chapman:

Q. Have you during the last three years at any time been teaching that the Jews had anything to do with the crucifixion of Jesus Christ?

Mr. Peterson: I object to that question. I do not think anybody could answer it unless counsel says whether he means the Jews as a race or as part of an organization.

Mr. Chapman: Any way you want to take it.

Mr. Peterson: Any Jews did participate? That is another question.

The Witness (Continuing): Individual Jews did participate. I did not tell the children so, I did not mention it. In connection with the crucifixion of Christ, in my teaching during the last three years I mentioned that Jews were present at his trial and perhaps testified. I do not teach those doctrinal things. I just teach the Bible story and the paper you talk about, I have not used since several years ago. I have had such an outline. I have taught that some of the Jews accepted Jesus and that some of them rejected [fol. 126] him. I do not teach the pupils that the Jews were accepted or rejected but I may have stated that, but remember that those things are explained. If you use an outline an explanation is given to the pupils. An outline does not include everything.

Line 13 on page 3 of the exhibit says, "The Jews rejected Jesus." If does not mean as a people. It means individuals.

Mr. Chapman: I ask that the last part be stricken as not responsive.

The Court: It may be stricken.

Q. I call your attention again to the other line and will ask you to read it.

Mr. Franklin: I object.

The Witness (continuing): You are referring to the outline as to the conspiracy against Jesus?

Mr. Franklin: We object to his asking the witness to read it. It is an exhibit which if relevant or material to the issues of the case may be properly identified and introduced in evidence, but he is not entitled to attempt to get it into evidence by having the witness read it.

The Court: The objection may be sustained to read it aloud, but she may read it to herself and he may call her attention to it.

Mr. Chapman:

Q. Did you teach at any time within the last three years anything concerning the conspiracy against Jesus?

A. There was a conspiracy.

Mr. Franklin: Object, and move to strike the answer.

The Court: I cannot do that.

The Witness: It is my personal opinion.

The Court: Mr. Chapman is asking you only with reference to what you taught or did not teach in the schools, not what you believe.

[fol. 127] The Witness (continuing): I did not teach anything in regard to the conspiracy against Jesus. It may be on my outline but I did not emphasize it in any way. It is on the outline because it is an accepted outline. Sometimes we follow it, sometimes we use a part of it. I do not have time to use them all, occasionally. I do not know if the teachers under my supervision follow the outlines. I have made inquiries and found that they are not able to use everything I give them.

The outline contains a reference to the challenge to Christ but that was not discussed. I provided them an outline for work which they used according to their own ideas. I am pretty sure I never mentioned much about that in class myself. I do not remember saying who made the challenge to Christ. I would not necessarily remember if I did in three years, I do not remember everything. It is in the realm of probability that I could have taught it.

I taught the children in my classes within the last three years that the Jews called non-Jews gentiles. I do not remember teaching them any names that gentiles called people who are not gentiles. They were considered as Jews. According to the Bible content I believe that is true and that is probably what I taught. With reference to the teaching of death and resurrection of Jesus Christ I taught them that

Thomas doubted it, his resurrection. He was often called the "doubting disciple". I did not teach the children to make a difference of any kind between him and the other disciples because it was made all right by his seeing Christ and then he became a believer.

Q. As long as he did not believe it was not all right?

Mr. Franklin: I object to that.

The Court: Objection sustained.

[fol. 128] The Witness (continuing): That is my personal belief. I teach children that Jesus Christ really lived. I teach that he was a divine person. In my teaching as to what time he was resurrected, it is generally considered as Easter. We usually speak of his having died on Good Friday. It is my personal belief that life was revived in his body. I teach that he rose from the dead.

Q. By that you mean that a dead body became alive?

Mr. Franklin: I object to what she means. I object to what the witness may mean by what she says.

The Court: Sustained as to what she means.

The Witness (Continuing): That is not necessarily what I teach the children although the statement may be in the Biblette, "On the third day Jesus rose". The Biblette is a sort of game in which they have cards with questions. One person will ask the question, then they have a card for the answers of the children. The child that knows the answer or has the answer on his card rises, and the other child gives him the card. It is just a game. It is not gambling.

Q. Is there any difference between that and playing lotto?

Mr. Peterson: I object to that.

The Court: Objection sustained.

The Witness (Continuing): I also teach them that God was known by other names, sometimes called Jehovah, sometimes called Father. I have spoken of him as "Lord".

We teach that God caused the big flood upon the earth as an Old Testament story. We teach the Bible story which says that he drowned many people. I do not teach that he gave any of them a trial before he drowned them. I teach that he also drowned many animals at the same time. I [fol. 129] teach the story that contains it. I let the children interpret the story themselves as to whether or not it is a

true story. I give them the Bible content. I never mention that I believe.

I teach them that Jacob had what he called a struggle supposedly with an angel. That paper which you are referring to is just a paper that was given for them, simply checking. I think there was not much discussion. It was simply a method for them to decide, as I remember it.

I teach them that Adam and Eve were the first man and woman. In connection with that I do not teach anything about the age of the rest of the world to the children that I teach, the little children. They were the last of His creations. God created the earth and He created life. We never mention how long ago He created the earth.

Q. What do you mean when you say God?

Mr. Franklin: I object to that.

The Court: Objection sustained, as to her own personal belief.

Mr. Chapman: I will make an offer to prove that when this witness says "God" she means a creature of some kind which has supernatural proclivities and has dominion over the earth.

Mr. Franklin: To which we object.

The Court: Sustained. You are asking for her personal opinion.

Mr. Chapman: No, I am asking what she means.

The Court: You may go into the question of what she told them.

Mr. Chapman:

Q. What do you mean when you say "God"?

Mr. Franklin: We will object to that.

[fol. 130] The Court: Sustained; I overruled your offer of proof so far as it calls for her personal belief rather than what she taught the children.

The Witness (Continuing): I do not describe God to the children. I teach that he is our heavenly father. I think they understand what I mean by "Heavenly Father". I do not believe it is necessary to teach them what I mean.

Q. What do they understand?

Mr. Peterson: I object to that.

The Court: Sustained.

The Witness (Continuing): I teach that God created the earth. I think I taught them that some had a calling. Moses, for instance, had a calling. According to my teaching the Jewish nation had a calling.

I teach these children that Jacob had two wives. The Bible says that, they read the story. I did not mention that he had two wives, only as we read the story. I think that is in our outline. I did mention in my outline that Solomon had many wives. I taught that he was a wise man. I taught that God has qualities of love and guidance. I taught that God provided something like a miraculous defense in Egypt. It would not be in the outline if I did not intend to teach it. I do not think they always used the complete outline. If teaching the children the 23d Psalm includes it, I taught the children about the Lord being their shepherd. I taught them the psalm. I did not teach them anything from the 23d psalm that the Lord has anything to do with the children's wants. I did not teach them they should have no want because the Lord is their shepherd. I did have them repeat "The Lord is my shepherd; I shall not want". I usually taught from the King James version or the American Revised Bible. I do not teach from the [fol. 131] Douay version in my classes. I teach the number of books there are in the Bible, the Bible that we usually use in our Protestant work. I do not ever tell how many books there are in the Catholic Bible or the Jewish Bible. I teach them that the Bible is sometimes called the Holy Scriptures, or Writ, Holy Writing. I did not necessarily mean the Word of God. I teach them that the Bible is sometimes called the Word of God. I teach them at certain ages persons lived called prophets, that they could foretell future events. I taught them that Isaiah foretold the coming of Jesus. I do not teach them where he got that information. I teach them that Jesus can be alive, that he was baptized, I teach where he was baptized. I do not interpret his baptism, I just teach the fact. I teach that he was baptized by John the Baptist in the river. I do not teach why he was baptized. I don't teach them that he was taken down in the water. I teach that Jesus raised up people or restored people to life. I teach them that others have done that since that time; the Bible stories tell that Peter did. I teach that there are many heroes in the Bible; the main hero in the Bible is Jesus Christ. I teach that the main

theme of the Bible is salvation. I do not say anything about it to the children.

Mr. Chapman: I would like to make an offer of proof. I offer to prove by this witness that when she uses the word "salvation" in talking to the children she means salvation from sin, "salvation from sin that probably hasn't been committed."

The Court: I will let her answer subject to objection.

The Witness (Continuing): When I say the word "salvation" to the children I mean salvation from sin that we have committed. I do not mean "or will commit." I teach them [fol. 132] that Jesus died for our sins and that he died before we were born for our sins. If you want to have it that way, he died for our sins before we committed them, provision is made through his death.

I teach the children to respect and reverence God. Occasionally I teach them to say prayers. Perhaps two or three times during the year we recite prayers in class. The children do not participate in any prayers unless they are written. When they are written the children sometimes participate as a group. I teach a respect for all religions. I do not teach any religion other than the Christian. For instance if somebody may be a Buddhist I will teach the children that they should appreciate the good in that religion. If a child does not take my class because he does not believe in what I teach I teach the other children to respect him and I try to teach tolerance and world brotherhood. I do that by bringing up some interesting story. I teach the contents of the King James version of the Bible. We put the contents in a review and we take one place and another. I do not start with the first chapter of Genesis. Sometimes we take it from the Old Testament or we may take the idea of a character here or there and study it. I put them all together make a little compilation of all this material from the various parts of the Bible. The modern views concerning polygamy in religion have never been mentioned in my teaching.

I did not teach them about Brigham Young, the founder of Mormonism. When asked about Robert Ingersoll I probably mentioned only that he was a writer. I do not remembzer saying anything about his religious views. I do not remember having mentioned him. I may have. I do not know the religious views of Thomas Edison. I never told

[fol. 133] them anything about the religious views of Luther Burbank. The children were too young to understand the religious views of Voltaire. We did not discuss the religious views of Darwin.

I taught about faith. I think I taught that faith saved Rahab.

Q. What do you mean by the word "faith" where you use it in teaching?

Mr. Franklin: Object to the question.

The Court: She may answer subject to objection.

The Witness (Continuing): Faith means having trust or confidence in a person or thing. Rahab had faith that the words that were told her were good and true. I teach that faith is one of our Christian beliefs. I do not recall that I taught anything in regard to faith in connection with Thomas, the doubting disciple. He doubted, but that does not necessarily mean lack of faith. I taught that faith conquered Jericho. When I use the word "faith" sometimes I mean faith in God. I think it is clear in the children's minds when I mean it that way. We distinguish it. When teaching I do not qualify it. I take it for granted they know what I mean.

I tell the children Bible stories in class. I get the information from which I tell these stories from the King James version of the Bible and Bible story books. I might have explained passages in the Bible but I do not interpret them. I do not teach the children that David was able to kill Goliath because he had better armor and better weapons. I teach them that he was able to do so because of the skill he had gained during his days as a shepherd boy and his trust in God. I teach them that David sinned in taking Uriah's wife. I do not teach them that Nathan forgave him for that. [fol. 134] I teach that Jeroboam allowed golden calves to be set up in the shrines of Dan and Bethel. I teach the first commandment. The children learned it in brief. I taught the second commandment. I made no comment about "bowing down," as used in the second commandment. I do not think that I taught them what a graven image is. I showed them idols. I have been in China and I have shown them Chinese idols. I did not teach them some Chinese religion while doing it. I did not teach them Shintoism. I told them that Elijah departed this world in a chariot of fire. I did

not make any explanation where he went or where he got the chariot.

Sometimes I teach with pictures. I taught with reference to everlasting life that those who believe in God receive everlasting life. I do not say anything about those who do not believe in God. The word heaven has been mentioned in my teaching. I do not say that everlasting life means going to heaven. I do not think I mentioned Satan.

In my course, first I teach Bible content. I take the stories of the Bible and tell them as they are told in the Bible without any comment as to their interpretation, and I try to teach the ethical teachings. For instance, the Sermon on the Mount and teachings like that I try to get in their everyday lives, the solution of their everyday problems. I also try to teach the brotherhood of man and the fatherhood of God; I also try to teach them that they can interpret, each in his own way, the scriptures. I do not teach that the brotherhood of man is the same as equality of religion. They are not equal to me.

With reference to applying the Sermon on the Mount to everyday life, Jesus gives us many teachings in how we are to treat each other, the line that he would have followed in kindness and love and all of that. I try to teach them that, [fol. 135] how to deal with others in the way of life and forgiveness. I do not recall that I have tried to apply the Sermon on the Mount to any present day social evils. I do not remember that I ever taught anything with reference to it being as difficult for a rich man to go to heaven as for a camel to pass through a needle's eye.

I had the words "everlasting life" in my outline.

Q. When you used that word in your teaching, what do you mean by it?

Mr. Franklin: We object to that.

The Court: She may answer. I would be inclined if this was being tried before a jury to sustain the objection, but since this is before three judges, we will try to eliminate what is incompetent in our own minds, but we are inclined to be very liberal in the admission of the evidence.

Mr. Peterson: Is it agreeable that any objection made by either of us representing the intervenors or the Board of Education may stand for both?

Mr. Chapman: That is agreeable.

The Court: It may be so understood in the record.

The Witness (Continuing:) I do not think I have ever made a complete explanation of everlasting life in my teachings because I think the children are a little too young to understand it, but I may have said that everlasting life means that we live for evermore. I do not explain it as meaning that we as humans live for evermore, but rather that whatever is God's plan will come to pass. I try not to use words that they cannot understand. They have to know what I am talking about so they do not have to go elsewhere to find the answers. We teach the life. I have never been asked to explain so I don't know that they did not understand what I meant. I teach that there is resur-[fol. 136] rection of the body but I have never gone into any detail about it. By that I mean the dead body comes to life. I teach that the Book of Genesis has religious value. I teach that animal sacrifice was accepted in the Old Testament as part of the religious ceremonies of the Israelites, that God did not approve of human sacrifices. I teach that Abraham's offer to sacrifice Isaac was just a test of Abraham's obedience. I do not teach any reason why God needed this test, just as a fact.

I know some of the doctrines and teachings of the Presbyterian Church. In the religious education that I teach there is no conflict with the teachings of the Presbyterian Church and its doctrines as I know them. To my knowledge what I teach is not in conflict with the doctrines or belief of principles of any other denomination. I do not know whether they are in conflict with the Free Thinkers. I have never come in contact with them. If I taught doctrines that were contrary to mine I did not know it. I realize there are other doctrines than those of the Presbyterian Church. I do not teach doctrines, I teach content.

Cross-examination.

By Mr. Franklin:

I teach religious education in the public schools, in the public school buildings. I do not teach in the public school program itself. I referred to the fact that there are classes taught by Catholic priests in the school district as part of the religious education program. I have sent the cards of the Jewish children who registered to the rabbi who has to make arrangements for them. They are not in my classes. Not only the Protestant churches are members of the Cham-

paign Council of Religious Education but also the Catholic church and the Jewish churches cooperate as members. I am referring in my testimony to what I taught the children [fol. 137] in my classes, I was not referring to the teaching of what I myself believe but to the content of the Bible.

Q. Have you ever urged on the children in your classes any particular belief other than as stated in the Bible that you used?

A. No, sir.

Mr. Chapman: Objection. It calls for a conclusion as to what she urges.

The Court: Objection overruled.

The Witness (Continuing): I have never practiced proselyting in connection with any children coming under my care and jurisdiction, nor have I ever attempted to form or change any children's belief from one denomination to another or from any religious belief to any religious belief or from another religious belief to my own. So far as I am acquainted with the way in which these classes are operated in the public school system, in the religious education classes none of the teachers do that to my knowledge. I have never attempted to induce students registered in the public schools to take the religious education classes. I have never used any form of social pressure or coercion in accomplishing that end. I have never to my knowledge observed anyone else doing that in connection with the religious education classes, nor have I ever observed any teacher in the public school system do or attempt any such thing.

I graduated from Champaign High School and the University of Illinois with a degree of Bachelor of Arts. I studied one semester at the University and had my Master's degree. I have attended the Presbyterian Training School in Chicago for about five or six months, and also attended the Biblical Seminary in New York. When I was in college I took Bible classes in the University. After graduation [fol. 138] from the University of Illinois I went to Indiana and taught English and history in the high school for two years. That was an accredited high school. I have a certificate as a teacher. I went to China in 1913, and after two years I became principal of the Memorial School. I was principal there off and on for about twenty years. Then I went to Manila where I was principal of the Union High

School, a school supported by several different denominations. I was also director of religious education there. Then I had a course of work among the American Indians. In Chicago I worked at Association House for eight years and taught Bible classes there.

In my work in these religious education classes I do not attempt to advance the belief or cause of the religious denomination to which I belong. It is the policy of the Champaign Counsel of Religious Education that no denominational belief shall be taught. As far as I know, that policy is strictly adhered to.

I have had occasion to participate in religious work in churches other than my own. I have been to a great many of the denominations in Champaign and outside of Champaign to give talks on my missionary work in China and in the Philippines. When I was in Chicago in settlement work I taught in the Methodist Sunday School and in the Plymouth Church, which was a Congregational Church.

Q. Has there ever been a time during your work in these other churches where anyone has felt that you were untrue to your beliefs?

A. Not to my knowledge.

Mr. Chapman: Objection.

The Court: Sustained.

The Witness (Continuing): No child in these classes has [fol. 139] ever complained to me or indicated that what I was teaching was contrary to what his or their own religious belief was. In substance, it was my intention to teach these children the brotherhood of man, the fatherhood of God and the practical application of the ethical teachings of Christ, and of the pupils' everyday life.

I do not know whether or not the teaching of these classes has any effect upon the children who take the classes, but one day while I was walking down the street a mother came up to me and said, "I cannot begin to thank you for what you have done for my boy." As far as I know, my teaching is generally well received by parents. I have never had any objection. I hope that children who come under the influence of these religious classes are better children as a result of it. In one class where we taught of the prodigal son one of the boys came up after class and said he was glad he had gone, that he had decided to run away from home, but then decided not to. One girl came to

me after class and said, "Before I came to your class I had a problem, but now it is solved." In these classes I do not teach the differences that exist in doctrinal belief, opinion or denominations. My attempt and hope is that each one will remain in the particular faith to which he or she was a party and to be a better citizen by being a better Christian.

Redirect examination.

By Mr. Chapman:

By being a better Christian I mean to live a better way of life, be more like Jesus, to be more Christ-like, follow more closely His teachings. The term "Christian" is applied to one who believes in Christ.

Q. That is the way you understand it?

Mr. Franklin: I object to what her understanding is.

[fol. 140] The Court: Overruled.

The Witness (Continuing): The term "Christian" is applied to one who tries to follow the principles that are put down in the Bible, a belief in Christ. What would it mean if it does not mean that? I am not changing my testimony. I mean a Christian is one who believes in Christ.

I do not teach the difference in beliefs. I am familiar with some of the beliefs of the Baptist church. I know something of the doctrines and teachings of the Christian Science church. I am not particularly familiar with the teachings of Jehovah's Witnesses. I am not particularly familiar with the Free Thinkers.

Q. On what fact do you base your testimony when you say that you teach factual material and nothing that is doctrinal?

Mr. Franklin: We object to his cross-examining his own witness.

The Court: I will overrule the objection.

The Witness (Continuing): I would like to give an instance. I teach the facts of the Bible, the Bible story.

Q. I am asking you on what facts you base your testimony or give your opinion or belief that you do not teach anything that is doctrinal.

Mr. Franklin: Object as argumentative.

The Witness: I do not understand the question. I stated that I do not teach anything that is doctrinal because I teach

what the Bible says but with no interpretation of its content. I do not teach anything that I do not believe in myself. I take the position every religion is good. I believe in the essential part of the doctrines of all religions. I do not know that polygamy is an essential part of religious doctrines at the present time. I know it used to be. If it [fol. 141] should happen to be a doctrine of a religion I would not believe in it.

Mr. Franklin: I object to that.

The Court: Sustained. We are getting afield from the matter of the issue of what is taught in the schools.

The Witness (Continuing): With reference to the teaching of Christian Science, I do not know whether or not they believe that Jesus was a man who walked on the earth.

Q. You do not know then if they have the same doctrinal principle or not, do you?

Mr. Peterson: Objected to as argumentative.

The Court: Sustained to the question in that form.

The Witness (Continuing): I do not teach any of the Chinese beliefs in religion. They are quite different from the Christian doctrines. I taught among the Indians for a few months. I did not especially teach them religion. I was head of the dormitory, matron. I taught religion to the Chinese.

Q. Was the religion that you taught them different from the religion that you taught in the Champaign schools?

Mr. Peterson: I object.

The Court: Sustained.

The Witness (Continuing): I and those under my supervision did not teach religion in all the public schools in Champaign and all the grade schools in Champaign. We teach in the buildings but we do not teach the first, second or third grades. We teach in all the buildings, except one school.

Colored and white children attend some of the same schools in Champaign. I think there are schools that are all colored. There was one teacher assigned to them; after that we had two classes. That was Mrs. Jorgensen. She [fol. 142] taught religious education for the colored school. The teachers under my supervision are engaged by the personnel committee of the Council of Religious Education.

I assumed that I had some results of my purpose in teaching religious education. By purposes I mean that the boys and girls live a fuller and a better life. For instance, if a boy had been doing something wrong, and through the study of the Bible he decided he would give it up, I think that would be a result. Some of the children changed when I gave them these religious education courses. I already stated the instance of the girl who said that she was tempted to do something, but that her problem was solved and she did not do it, and of the boy who said that he was contemplating running away from home and then decided not to do it. These were things they told me.

Recross-examination.

By Mr. Peterson:

I did not teach any Chinese pupils in the schools here. I have not encountered them in this country.

Mrs. Lakie B. Munson, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Lakie B. Munson, 412 West Church Street, Champaign. I am a teacher in the Champaign Junior High School. I have been teaching in the Champaign public schools for sixteen years. Last year I taught at the Dr. Howard School in Champaign. I was principal there. Miss Chapin taught religious education there last year. I myself taught grade 6. She taught religious education in my class [fol. 143] room. I was not present at the time. I was taking care of the children who were not members of the class that were taking instruction. Religious education began in my class room at 9 o'clock. With the children who did not take the course I was in the office having regular class work. I took them into an office adjoining the class room.

Q. What happened to the students you abandoned to Miss Chapin?

Mr. Franklin: Objection.

The Court: Sustained.

The Witness: (Continuing.) I did not abandon them. Those that did not leave the class room and come with me I presume stayed in the class room. I was busy with my group. I left the class room because that was the time set aside for religious instruction for that particular group. That time from 9:00 to 9:30 was set aside for religious education in my class room by agreement between myself and Miss Chapin prior to the institution of the class. The program works this way: In the bulletin we are advised that the religious education teacher will appear in the building prior to 8:30, the official school time; that is when the first bell rings, to confer with the principal and teachers as to the time they find it will fit best into their program, so that it will in no way interfere with the regular secular subjects. We set the time the teacher will be there. My time was set as 9 o'clock each Monday. I cannot use the word "authorized" by the superintendent. That was instituted several years ago. The only directions which we received from the superintendent each year were that the teachers of religious education for each building would present themselves and work out a program. The infor- [fol. 144] mation usually came from the office of the superintendent. It has during the last two years.

I began teaching at 9 o'clock in the morning and closed at 3:15 five days a week except holidays. There are around twenty teaching days a month. I am paid by the month. My salary as a teacher is not based upon the number of hours I teach. I come in at 8 o'clock in the morning and leave sometime between 4:30 and 6:00. In grade 6 I estimate I spend in the class room teaching between 295 and 325 minutes, based on 30 minute periods. Last year I believe I taught four classes on Monday morning.

I have not talked to anyone about this case before coming up to testify today. I know of this lawsuit through being served with a subpoena and through the newspaper. I might have discussed the case with my family.

Mr. Peterson: I object to his questioning his witness this way.

The Court: Objection sustained.

The Witness: (Continuing.) The average school day is five hours and 15 minutes in the sixth grade. That is the average period of giving instruction in my class room for the average monthly salary. My room is used for

thirty minutes for religious education. I do not teach overtime to make up for that time. I do not have a special class of my own for those children who are taking religious education. On Tuesday morning when there is no religious education class from 9 to 9:30 I teach arithmetic. The same on Wednesday. If it were not for religious education on Monday we would have arithmetic on Monday. I do not omit the arithmetic class every week on Monday. A class or a subject is never omitted even though thirty minutes out of the fifty minute arithmetic class might be taken on Mon- [fol. 145] day morning. We have a ten minute leeway which is given for opening exercises or whatever the teacher may choose to present at that time. Our program is supposed to start at 9 o'clock. I would take the children who were not members of the religious education class and we were out of the room and on our way to the office at 9 o'clock. As I brought my group out Miss Chapin stepped into the room and took over; she was in there thirty minutes. Our program is flexible. We do not teach a subject according to the minutes of the day and hour. It is just a matter of time, and is simply a guide mark. I might run over in arithmetic some day five minutes. I may have that lesson under control and be able to get it done in ten minutes. We are teaching subject matter, not time. Very often I will find I am running over five minutes on English, which would normally follow arithmetic, and I just take a little more, maybe five minutes, off this subject, but I do that constantly, any teacher does who is teaching boys and girls and not running a schedule. I do not mean by this that I slight arithmetic. I slide down because of religious education. I can pull the thirty minutes off against all the subjects, and I do that constantly whether it is religious education being taught or something else. We must do that. The children that go to the office with me do not get more education, more instruction, or more of my attention and time than those who stay in and take religious instruction. There are always those who need much more of the secular efforts, extra help. During religious education I have an excellent opportunity to help boys and girls who perhaps need help on a specific subject, maybe spelling, maybe arithmetic, maybe English, maybe counselling, but there is nothing given more by being [fol. 146] there thirty minutes than what I find time for ordinarily in the class room to give those same boys and

girls. I have no way of knowing whether these children who go out of the class room at the time of religious education are persons whose parents do not agree to them taking the religious education. I do not distribute cards among parents as a means of finding out who wants to take religious education. I have nothing to do with that, I assume the religious education teacher does.

Q. Do you mean that you surrender your whole class room to this religious education teacher?

Mr. Franklin: Objection.

The Court: I think I know what Mr. Chapman is seeking. Maybe you could reform or rephrase it without using the word "surrender." I will allow you to ask that, of course.

The Witness (Continuing:) I never make inquiry as to why some five or six children leave the religious education class. That is not my job. That is voluntary. I have no idea why they are not members. I do not know what you mean by "dumb" when you ask whether it is just the dumb ones that go out with me to study during the religious education class. They are not ones who are behind with their studies or whose grades are low. Sometimes brilliant pupils need help. If you mean do I take out with me only those children who are low in achievement my answer is no. I take those who do not want to take religious education. There is always work for those children to do. I can find it for any group.

I do not spend 30 minutes more each week with them than with those who take religious education. As teachers we work with children and individuals, not a mass. I have completed my individual work with those who are with me [fol. 147] in those 30 minutes. I therefore can set them to work and go back to others and take care of — that have not had 30 minutes. They have not had 30 minutes more than my boys and girls who are not with me in the office. Sometimes on Tuesday I take out two or three from the class. I do not leave the class for thirty minutes, nor on Wednesday or Thursday or Friday. Sometimes I may take more out on those days for other purposes. I do not take students out of the class room at 9 o'clock on Tuesday morning as on Monday, but I might take them out at 2 o'clock. Quite frequently I take five or six or eight or nine students out of my class to the library for special work.

I do not leave the rest of the class room for thirty minutes, maybe not that long at one particular time.

It is a fact that at 9 o'clock on Monday morning I leave my room because Miss Chapin comes in to teach religious education. After she teaches my room she goes to the other sixth grade. I was principal there, the other teachers were under my supervision. If they were not following instructions I was not aware of it. When Miss Chapin went from my room to the next room the sixth grade teacher followed the same procedure. She was directly across the hall where I pass her in and out. She did not take children out. They were not members of the class which was held in the room at that time. They walked out voluntarily when she went out. After the religious education class was finished she went back there and the other students came back there. The religious education class did not stay there after closing time. I separate four or five or six from the rest of the class on occasions other than for the religious class, whenever there was any type of special work in the library. I did not select the same ones [fol. 148] who left the room when Miss Chapin came in. I did not have occasion to take them out of the class room at other times, the same ones.

After Miss Chapin finished the other sixth grade class she went to the fifth or fourth, I don't know what her schedule was. Mrs. Taylor and Mrs. Johnson were teaching in the fifth grade. I don't know whether Mrs. Taylor left the class room when Miss Chapin came in to teach. Mrs. Taylor was under my supervision. Most of the time I took notice whether she was teaching or not. I do not know whether she left most of the time or did not. I know that Mrs. Johnson left the class room when Miss Chapin came in; she had a library group operated along the same lines as I worked in the office. She took her group down to the library to study there, to study special work, and she worked with the students during that thirty minutes. All the time that Miss Chapin was teaching religious education in the Dr. Howard School that same building was being used for regular classes. I never touched the cards which were sent to the parents. I had seen them. I noticed Miss Chapin passing through the hall with them in her hand. I presume she distributed them during religious education time. I did not distribute them or deliver them. I was teaching here when the religious education was first in-

ducted into the school. I would not say that I always took a group of students out of the class room each Monday morning at 9 o'clock but I have always followed the practice of doing specialized work with a group. I never distributed any of the cards when the religious education first began.

During the period when they were under Miss Chapin they were not out from under my control. Had anything [fol. 149] developed I always had the privilege of returning as the class room teacher; for discipline if necessary. I never experienced the feeling that I would not be allowed in there.

At the beginning of the school year we have new students. Usually they just hear about religious education. Sometimes if they have ever taken the subject and come into our school after class is instituted they see me about taking religious education. I might ask a group if they were members of the class. Someone might say he was taking it and I might tell him to go in there. I would let him go to Miss Chapin, who takes care of him from then on.

When Miss Chapin is teaching religious education to the group the others who do not take the course are not expected to go out to play. They never have in my group. I do not send them home during that 30 minutes or send them away from the building. I do not permit them to leave the premises during that time.

Cross-examination.

By Mr. Franklin:

It is my practice to teach individuals as individuals rather than as a class. I attempt to give as much time to each individual boy or girl as the particular requirements indicate.

Q. Is it true that you believe each of your children should receive the same amount of your personal time and attention with the religious education classes in the school as they would receive otherwise?

Mr. Chapman: Objection to the belief.

The Court: She may answer whether in her judgment that is true or not.

The Witness (Continuing): It is in line with my judgment, it is the fact. None of the children lose any of my [fol. 150] personal attention or instruction as a result of

taking religious education. There is ten minutes of each day or fifty minutes a week set aside for opening exercises, or such uses of a non-instructional nature as I choose to make of them. That is true throughout the school system in Champaign. There is fifty minutes of time in the week about which there is no provision for use in the regular public school course. If thirty minutes is used for religious education there is still twenty minutes of unassigned time.

Cross-examination.

By Mr. Peterson:

Each pupil obtains full instruction in each subject taught in my school in each week during the school year. They lose absolutely nothing as far as instruction is concerned by some of them atending these classes. In school we sing the National Anthem. The Star Spangled Banner is sung, also America. In singing them we do not omit that part of it which says "In God We Trust".

Redirect examination.

By Mr. Chapman:

I do not expect all of the students to sing that part "In God We Trust". I presume that they do not participate in that if they do not want to. We never make any comment. We have never asked them to sing when that is being sung. Nobody ever refuses to sing it.

When I speak of individual instruction I mean in cases where a period may be divided into a study period, an assignment period and a recitation period; with children who are studying you may be working with this one or with that one or somebody else on the arithmetic or English. It is [fol. 151] not a place where we come in, sit down, look at the clock and say it is time for arithmetic, then teach arithmetic for fifty minutes, look at the clock and walk out. It is flexible and is divided into different types of active study and recreation. We are able to arrange our schedule so that religious education does not detract from the services we give the student. I am being paid to teach boys and girls. I cannot say who of the students take a great deal more of my time than others. I would not say those who need it most get the most. I do not necessarily mean that these

who do not take religious education need more of my attention than those that do.

I remember talking to you about this subject once before. That was in the office of the Dr. Howard School.

Q. Do you remember telling me and several others present that on Monday morning you took out thirty minutes from arithmetic—that is, you were behind thirty minutes in opening the Monday class?

Mr. Franklin: Objection.

The Court: Sustained. Is this an attempt to impeach your own witness?

Mr. Chapman: This is a hostile witness.

The Court: I will allow you to ask leading questions but I do not believe you can impeach her.

EUGENE HARVEY MELLON, called as a witness on behalf of relator, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Eugene Harvey Mellon, 601 W. John, Champaign, Illinois. I am superintendent of schools of Champaign, District 71. Miss Chapin teaches religious educa-[fol. 152] tion there. I have been superintendent about 2½ years. In our bulletin I probably stated, "Teachers and principals will make arrangements with the religious education instructors, the music supervisors, art supervisors and all other pepole who have work to do in the schools, other than the regular class room teachers." Art and music are not given every day in our grades. Art and music might be taught by each teacher. I am speaking of the art supervisor and the music supervisor who comes in for special classes. Religious education would come in a similar manner. That is the system which was already established when I became superintendent. Before children take the course, cards are sent to their parents for permission. They are not distributed through my office. Sometimes my office would mimeograph the cards. They are paid for by Miss Chapin. The mimeographing would be done by the office clerk. She is under my supervision and paid by the school board.

I know who teaches religious education in the schools. I do not determine who those teachers are. During the last year or two Miss Chapin told me who was going to teach. I made no objection to her teaching in the school nor have I ever objected to anybody teaching in the schools. The schools are open to all denominations who want to teach in them.

Q. If two or three people should appear next Monday morning at Miss Chapin's room to teach religious education in her class you would permit them to teach?

Mr. Franklin: Object to suggesting any such hypothetical condition.

The Court: Sustained.

The Witness (Continuing): The schools are available to Christian Scientists if they want to conduct the class. It [fol. 153] would not be practical for them to teach in the same room at the same time as Miss Chapin teaches. It would be done in another room. I would permit Jehovah's Witnesses to use the class rooms once a month for the purpose of teaching if the person was qualified to teach properly. The board has the unwritten reservation that the person should be qualified to teach. We would want a qualified person who would know the correct usage of the English language, who would teach in proper English, use good grammar and language; in other words, of the same general type and do the same general type of teaching that a class room teacher would do. I would not consider what religious denomination he belonged to.

Q. If he taught polygamy would that be all right?

Mr. Peterson: Objection. Polygamy is not recognized in the United States.

The Court: Sustained.

Q. If he teaches that saluting of the flag is wrong?

Mr. Franklin: Objection. We are not called on here to pass on hypothetical situations.

The Court: Sustained.

The Witness (Continuing): The class room is available to people who teach religion to the effect that saluting the flag is wrong, but they have never asked for it. Each principal and teachers in that building work out the schedule to determine which class rooms are available.

Q. I will ask you if you will now designate a class room for Jehovah's Witnesses.

Mr. Franklin: Objection. We do not know just what he refers to as Jehovah's Witnesses. If proper application is made to the school board they will certainly give it the con- [fol. 154] sideration which it deserves, the same type of treatment that every other religious sect or denomination receives.

The Court: Objection sustained.

The Witness (Continuing): As far as I know, the class rooms are available to a person who believes in no religion. They are available for the use of political parties during school hours.

Q. Do you mean to say that the schools are now available to all the churches in the city, and school buildings may be used by all of them while they are being used by students?

Mr. Franklin: Objection. He has not said that.

The Court: I will sustain the objection in that form.

The Witness (Continuing): The school buildings are now available to all religious denominations in this community to be used while they are being used by students. I am opening up these buildings to all these people with the permission of the board of education. I have not given any thought to whether the schools can furnish sufficient space for all denominations to teach during school hours.

Cross-examination.

By Mr. Franklin:

I mean that I would allow a denomination to come in and teach in a room where secular classes were being carried on, class rooms which were not at the time required for students, while other rooms are being used by public education classes. The school buildings have been used for political meetings. Those meetings have been attended by other than school children. They were used when the school was not in session and the political party met. It would not be practical to have adults come in in large [fol. 155] numbers for political meetings during the time that some of our rooms were being used for educational purposes. It is upon that basis that we exclude them during the hours in which the school is in session. That presents

a different problem to me as an educator than the form of religious education classes to be held in the public school buildings. The religious education classes are held in orderly fashion; in the class room we would have to set aside a complete room to have an adult meeting. Jehovah's Witnesses have used our high shool swimming pool for baptismal purposes. They were readily granted that permission and without anty rental. No other application to my knowledge has been made by Jehovah's Witnesses for use of the property under the control of the board of education and of course none has been refused. The Superintendent of schools in Champaign preceding me was V. C. Nichol, who is now Superintendent of Public Instruction of the State of Illinois. These courses were inaugurated during his term as superintendent.

Redirect examination.

By Mr. Chapman:

If a church sent a religious education teacher and had only one or two students they would move out to a smaller space and would leave the class room for the large group that stayed. If we had a large group the smaller group would move out and let the religious education in.

[fol. 156] JOHN GEORGE KAISER, called as a witness on behalf of the relator, having been first duly sworn, testified as follows:

Direct Examination.

By Mr. Chapman:

My name is John George Kaiser, 310 E. University Avenue, Champaign. I am pastor of St. John's Lutheran Church of the Missouri Synod. I have been acquainted with the religious education system in the public schools of Champaign from the beginning. The system first came to my attention at the organization of this religious council. Pastor Cartlidge of the First Presbyterian Church consulted me about the formation of this council for the purpose of religious education in our public schools. That was some three years ago. I did not attend any of the meetings of the council until this past summer. I approached the

council to grant to the Roman Catholic people and other people of that faith in our community their separate instruction, and also to the people of the Jewish faith, or the reformed orthodox church had an instructor. They would permit a flexible program, exceptionally so; they would allow these children of the Lutheran faith to receive instructions according to that faith. I have not as yet arranged to provide a teacher. That was very late in June of this year at a meeting in the First Methodist Church. I presume those present were members of this religious council. There were between 15 and 20 persons present. When I offered this suggestion no action was taken on the part of the council, but I was assured that if and when there were sufficient children desiring instruction according to the Lutheran faith, time would be granted us. Of my church I estimate there would be probably 50 to 75 children in the various [fol. 157] schools in Champaign and Urbana. It is difficult to estimate how many in each since my parish covers both cities. I cannot estimate whether it would be about half and half but the larger number would be in Champaign. I have not made application to the board of education of School District No. 71 in connection with this matter nor have I pursued it any further than the religious council. That is because I believe sufficient children must be in an individual school who desire Lutheran instruction before the board of education acts. I do not know how many there would be. The Lutherans do not now have a teacher of religious education in the public schools of Champaign.

I am familiar with the doctrines and teachings of the Lutheran church. I heard Miss Chapin testify. Miss Chapin testified that she teaches the children that Jesus Christ is a man who walked upon the earth. That is only partially in accord with the principles as used in the Lutheran church. The divinity of Jesus Christ is omitted. Generally speaking, her teaching that everlasting life means life for evermore and that dead bodies rise, become alive again, is in accordance with the doctrine and usage of the Lutheran church.

Q. She says she teaches that Rahab was saved by faith and by faith she said she meant in a thing or person.

Mr. Franklin: Objection. That is not a fair question or exact statement of what she said.

The Court: Objection sustained.

Q. Will you state the doctrine and teachings of the Lutheran church in its attitude toward that story?

Mr. Franklin: Objection. This suit does not require an expression or statement of all or any of the representatives of the different faiths of what they believe in.

[fol. 158] Mr. Chapman: One of the chief issues of this case is whether or not this religious teaching is sectarian. The only way we can tell that is to compare them with the doctrines and teachings of the various sects. We want to know if they are all in accord with the teachings of other denominations.

The Court: Pick out the particular thing she said and I will permit you to interrogate—not word for word but the substance of it.

The Witness (Continuing): I do believe that our individual beliefs compared with Miss Chapin's statement are not relevant since our Lutheran church has for years carried on its own religious instruction in Champaign for the children of the congregation, and therefore we did not participate in religious teachings in the public schools. We have our own school for teaching religious education on Saturday morning.

Q. So that the teaching of religious education in the schools during the school day does not harmonize with your practice?

Mr. Franklin: We object to that.

The Court: The word "harmonize" is objectionable.

Mr. Franklin: That is absolutely invading your Honor's province.

The Court: The objection will be sustained to the question in that form.

Cross-examination.

By Mr. Franklin:

The objection I made to what Miss Chapin testified to regarding the nature of Jesus Christ was only because she did not include a reference to his divinity in describing him as a human being who once walked on this earth. It was not her omitting that, in that she said something that I do not [fol. 159] believe in, but that she did not state the whole of what I believe in and also the Lutheran church believes in

the humanity of Jesus Christ. She spoke of just one phase of his character or nature and we say there are two phases to it.

Redirect examination.

By Mr. Chapman:

Q. Would you say that the views of the Lutheran church harmonize fully with Miss Chapin's statement with reference to the divinity of Christ?

Mr. Franklin: I object to that question as not relevant.

The Court: Let me ask if the school board is raising any contention that as to the religion taught there are differences in creed and belief between those who are already engaged in this religious education program, including Jewish, Catholic and various Protestant faiths.

Mr. Franklin: No doubt or contention, but they say different religious groups entertain different religious beliefs. That was not raised.

The Court: The objection to the question is sustained.

HAROLD E. BARCUS, called as a witness on behalf of relator, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Harold E. Barcus, 1514 W. Healey, Champaign. My primary occupation is that of preaching the Gospel of the Kingdom. I work as a floor covering mechanic. [fol. 160] I am affiliated with Jehovah's Witnesses in Champaign, Illinois. I am Company servant of the Champaign, Illinois, Company. The Company servant holds the position of an overseer or captain or chief commission, in any certain locality. I am familiar with the teachings and doctrines of Jehovah's Witnesses. I have spoken to Mr. Mellon since he testified here a few moments ago. Our counterservant, T. E. Wells, was present and somebody else of the religious council. We approached him with the idea of getting time in the public schools and also a place. They said it would be possible but we would have to go through the regular procedure.

Q. Did he grant you permission to use the school?

Mr. Franklin: I object. He may state what was said.

The Court: Sustained.

The Witness (Continuing): That is the essence of what was said as I remember it.

Q. Will you tell what the doctrines and teaching of Jehovah's Witnesses are with reference to the divinity of Christ?

Mr. Franklin: I object.

The Court: We will hear it subject to objection.

The Witness (Continuing): We believe that Jesus Christ was in the beginning with God, a spirit creature; that he became a man; that he was not part man and part spirit because in that sense of the word He could not have given the perfect price for mankind, because it required a perfect human life, so He became man; that as a man He walked upon the earth; He was crucified, and raised from the dead on the third day; that He gave His blood and body for the salvation of all who believed on Him. Then that he rose to heaven in the spirit but that He did not rise from the [fol. 161] ground in the flesh, but that He rose as a spirit and assumed the fleshly body on certain occasions.

Mr. Franklin: We move to strike the answer.

The Court: For the time being I will let the answer stand.

Q. Will you tell us of the doctrines and tenets of Jehovah's Witnesses with reference to the resurrection of the physical body?

Mr. Franklin: Objection.

The Court: The same ruling. Mr. Chapman, you are not going into the minutia of faith and doctrine of all the different denominations, are you?

Mr. Chapman: Just a few. We want enough to show clearly and distinctly that there is a difference.

The Court: You may do it for that purpose, subject to objection.

The Witness. (Continuing): That is quite a lengthy discussion if every point was brought out, as to whether we teach revival of the physical body after death. There are two classes who receive resurrection; one is the body of Christ, and until taken out of this world and as a people by His name, and they are revived in the spirit only but not in

the flesh. There is also another class mentioned in the Bible. They are also mentioned as standing before the throne of God, some of those who have died in the past, who lived and died—for instance, before the time of Christ, before he was down to prepare the way for whose who enter into heaven. For this righteous class we hear of Abraham, Isaac, Jeremiah, John the Baptist, because the Scriptures plainly teach life in the Kingdom of Heaven.

The teachings do not include that all physical bodies, the human race, will die and will be resurrected in the flesh. There will be two classes, those in the body of Christ will be [fol. 162] heavenly and absolute, and those who will acquire the body celestial, and some, the rest, will be quickened of spirit; some are raised and quickened, and can live in the flesh. We believe in the Kingdom of God, and Christ, and that it will be as it was on earth before, as Christ told or foretold before.

EUGENE HARVEY MELLON, recalled as a witness on behalf of relator, having been previously sworn, testified further as follows:

Direct examination.

By Mr. Chapman:

Q. What is this regular procedure through which people must go in order to obtain the use of the school house, such as Jehovah's Witnesses?

Mr. Franklin: I do not believe this is the forum in which to go into the merits of the application of Jehovah's Witnesses. They have not been denied and will not be.

The Court: Objection sustained.

Mr. Chapman: I offer to prove by this witness that he has a procedure by which people must apply to the religious council in order to get permission to use the school building and they work in cooperation with the religious council.

The application has been made now.

Mr. Franklin: I will withdraw my objection.

The Court: I will allow him to answer the question.

The Witness (Continuing): The regular procedure, I said, would be in my office sometime, and I would not discuss it here. In the regular procedure for obtaining the

use of the school buildings, I would like to have the names of the pupils and the schools in which they are located, and [fol. 163] the number of pupils; that would have to be taken care of in my office. I am a practical person. I would like to know, before I would grant permission to Jehovah's Witnesses to use the school buildings the number of persons in the school and also to make regular arrangements.

Q. If there would only be a few students would that make a difference?

Mr. Franklin: I object to that.
The Court: The objection is sustained.

Q. While you were talking to Mr. Barcus a few minutes ago did you inquire of him as to how many children would be interested in such a course?
A. I did.

Mr. Franklin: I object to that.
The Court: Objection sustained.

Q. Did you inquire as to where those children were?

Mr. Franklin: Objection.
The Court: Sustained.

Mr. Chapman: I offer to prove by this witness that he asked Mr. Barcus how many there were and where they were.

Mr. Franklin: Objection.
The Court: Is that the whole offer?
Mr. Chapman: Yes.
The Court: Objection sustained.

The Witness (Continuing): I did not know who Mr. Barcus was when I talked to him. I recall talking to him a few minutes before he was on the witness stand. You were present, Mr. Barcus and another gentleman whom I do not see and whose name I do not know. I said we would want to know the number of Jehovah's Witnesses pupils and what school they were in and where they were located. I do not recall anything further said at this conversation.

[fol. 164] Q. Was anything said about these people having applied very many years ago.

Mr. Franklin: Objection. This is impeachment of his own witness.

The Court: You may say if there was anything else said.

A. There was another gentleman present who was trying to explain to Mr. Barcus the orderly procedure, and that all of the groups should work together; it was hard for us as a board of education or as a superintendent to work with a lot of different groups. That may not be just exactly what he said but that is all I can think of.

DELOS L. HUXTABLE, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination,

By Mr. Chapman:

My name is Delos L. Huxtable, 410 West Clark Street, Champaign. I am manager for Beatrice Creamery Company. I am president of the school board. I know there is religious education being taught in the schools of Champaign. According to the minutes of the school board they were granted permission on June 6, 1940. There were present Mrs. Damon, the president; Mr. Dallenback, Miss Kelley, Mr. Nichol, the superintendent, and the clerk. I am not sure about the rest. The meeting was held in the junior high school. We agreed to cooperate with reference to teaching religious education in the schools. The Protestants would have one group and the Catholics, and would be given a room where they would have the class and we would go along with the plan of the religious people. They [fol. 165] were all to be treated alike, with the understanding that the teachers they would bring into the school were approved by the superintendent. They would have to be approved by somebody else because they were hired by somebody else. The superintendent was the last word so far as the individual was concerned. They checked as to their education. So far as I know that has been the practice since then. I never heard of any conflict between the various religious groups in the use of the same room at the same time. If there was it never came to me and I doubt very much if it came to any member of the school board. I do not think any arrangement was made to avoid such conflict. I do not think it was ever brought up. We delegated that to the superintendent and it worked very smoothly. I am satisfied with what has been achieved as far as I know.

Q. The superintendent, both Mr. Nichol and Mr. Mellon, have been able to supervise this religious education in such a way that there was no conflict between the different denominations?

Mr. Peterson: Objection, there is no evidence that he supervised.

The Court: Sustained.

The Witness (Continuing): The public schools in the city of Champaign are under Mr. Mellon's supervision. He is superintendent of schools. He knows of the method of business that the school board does. Of course the school board as a group handles the schools. Individually we do not carry any power, we do collectively. With reference to the supervising religious education and secular education for the purpose of avoiding conflict in the use of the schools, the superintendent works with the principals of the schools [fol. 166] and I think it has worked smoothly. Nothing has ever come to the school board.

Rev. H. Clifford Northcott, called as a witness on behalf of relator, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is H. Clifford Northcott. I am minister of the First Methodist Church of Champaign, Illinois. I reside at 409 W. Hill Street, Champaign. I am acquainted with the teaching of religious education in the public schools of Champaign. I came to Champaign seventeen years ago. I found an interest in weekday religious education among the congregation, and as the interest grew we found a group of ministers and others likewise interested. They gathered together at a mass meeting in Wesley Foundation about five years ago. People from all faiths were invited to come. Many did come. Wesley Foundation is in Urbana. It was a convenient meeting place and it was hoped that the effort would be a twin-city effort. There was a great interest in it. The school superintendent became interested and others. Committees were formed and plans studied. A committee was appointed and went to the school board and cooperated

with the school board in further promotion. The superintendent of schools cooperated with them very willingly. He told us that he had looked into this matter of religious education, that it held a position of common interest, it was part of an educational interest that he had—all such matters were considered. I think he allowed us to come to the board meeting to present our statement. He did not ar- [fol. 167] range with us then for the use of some school buildings. He did not make arrangements with us with reference to teachers but we had the inference he would. We did not employ any teachers until the matter was approved. The school board gave its approval for the use of the buildings. There are all kinds of things held in the school buildings, and those matters are handled by the superintendent of schools, and this was just another type of things that was handled along with his other work. We had a committee of teachers. The first one selected was Mrs. Peter Auten. She was employed by the council of religious education formed in the community. The council consisted of all who would enter. I cannot tell you all who entered. There were the Methodists, Presbyterians, Episcopalians, Disciples of Christ, Baptists, Congregationalists; I think some Four-Square Gospel people. I have seen the tabulation. It was a great list. I mean representatives of those faiths. There would be a couple probably from each church. I don't remember if Universalists came. We do not have a Universalist church in Champaign. I did not notice any Jehovah's Witnesses. I believe the Methodists had 8 representatives, the Presbyterians had 4, the Congregationalists 3, the Baptists 2, the Christians had something like 4, that is not accurate.

This council was kind of hard at first to get started. We got together as good democratic organizations do. We formed with a president, a vice-president, a secretary and treasurer. Then we appointed our committees. There was no constitution at once but it was gained after a while. By it we set forth the statement of principles and purpose of the organization. We did not then raise any money with which to conduct religious education. The money was provided among the ministers. We thought we ought to get [fol. 168] contributions from the various churches in proportion to their ability to contribute to the general cause. There was a voluntary response. No assessments were

made. When the money was gathered and we had sufficient funds we employed a teacher. The council paid the teachers. The committee selected the teacher, who was then approved by the council. The council did not purport to be a public body of any kind but it was a public body in the sense it was democratically selected in the community. Then the superintendent was informed about the teacher and her qualifications. I think the superintendent felt happy. He approved that teacher. I think her name was submitted to him by the teacher's committee in his office where he regularly does business. I think the council talked over with the superintendent the arrangements for the class rooms for the teachers and they thought that things could be arranged and after they knew the extra time and furniture, what was absolutely necessary to be used by these teachers, they arranged that. They left that to the superintendent and the teachers to arrange, just as they would for any other detail or any other meeting in the schools. I had nothing to do with reference to children whose parents might not approve. I never heard of any parents objecting to the courses for any reason, except possibly that the schedule was crowded. I have never heard of any complaints. With reference to obtaining the opinion of the parents as to whether their children ought to take these courses, the parent has to sign a card to permit the child to attend these classes. I do not know how the parents get those cards. I saw the cards and I had a child that took the course. Marian Louise Northcott brought it to me. I do not know where she got it. I signed it and she took it back.

[fol. 169] EDWIN H. REEDER, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Edwin H. Reeder, 716 Iowa Street, Urbana, Illinois. I am a university teacher. I am affiliated with the Urbana Society of Friends, commonly called Quakers. I have talked with Mr. Franklin about this case on the telephone Saturday afternoon. I did not know him until I saw him here, and one of the ministers gave me his name.

I am familiar with the teachings and tenets of the Friends. I am not an expert on it. I am familiar with their doctrines. There are no articles of faith in the Friends. The doctrine is that one's own conscience instructed by the Bible is his only guide. There is no creed. I presume that the Quakers teach their beliefs to the children. I have never been a member of a congregation that had a church school. There are as many beliefs with reference to Jesus Christ and his divinity as there are Quakers. There are wide differences, two main groups. One group accepts the divinity of Jesus in the same way it has been discussed here today, that is, actual divinity in the sense of Jesus being God. And the other, in the sense that He was divine in the same sense as every human being is divine, not an actual God.

I know of no tenet accepted by all Quakers with reference to resurrection of the body after death. The Quakers in general accept the belief in God. I do not know the nature of it, the meaning of the term "God" since it is not covered by creed or theory of the Quakers. They would have different beliefs.

[fol. 170] Rev. Ernest William Moore, called as a witness on behalf of relator, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Ernest William Moore, 604 East Clark Street, Champaign. I am a minister of the gospel and a printer. I am affiliated with the Interdenominational religious group. We have the Twin Cities Bible Church Interdenominational, to that extent it is an organization. I am familiar with the teachings and doctrines of the Twin City Bible Church. Their doctrines with reference to the divinity of Christ are absolute. He was God and man. These doctrines include that Jesus was crucified, died and came to life again in the body. The doctrines teach that all human bodies which die are resurrected again; that Adam and Eve were the first man and woman; that they were the ancestors of all people. They teach that the Bible is absolute perfection as a source of science, religion and history.

Cross-examination.

By Mr. Franklin:

I do not object to the religious education classes being conducted in the public schools in the manner in which they are conducted, on released time. I have no denominational objection to urge on behalf of my denomination.

[fol. 171] Bessie Taylor, called as a witness on behalf of relator, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Bessie Taylor, 206 North New, Champaign. I am a teacher in the Champaign elementary schools. This is my fourth year. I teach in the Dr. Howard School. I taught there last year, fifth grade. There are two fifth grade classes there. I have fifth grade again this year. I use one room for teaching. I use the same room all day. At different times the music supervisor and art supervisor teach in my room, and the religious education teacher. When the art supervisor comes in I turn the pupils over to her. She teaches a lesson in art. While she is teaching I observe. I do the same thing when the music supervisor comes in. At times I do the same thing when the religious education teacher comes in, not all the time. When I do not observe I may supervise the children that are not taking religious education. During the past year I have had children who did not take religious education, 2 the first semester and 1 the second. The first semester they were Elwin Miller and James McCollum. When religious education was being taught we went to the music room. They took material they needed to work, maybe recreational reading or something like that. In the second semester James McCollum did not take it. He did not take it any time during the last semester. When the religious education was being taught in my room during the last semester he went into the music room with work he needed to do, a part of the time. One day he sat out in the corridor.

Religious education was taught in my class Friday between 10 and 10:30 last year. That is my best recollection.

[fol. 172] Terry McCollum left the room on days when religious education was being taught at the beginning of the period and came back at the end of the period. We did not have a recess or intermission between the time I stopped teaching and Miss Chapin began; there is always a little intermission between classes. I suppose it was about 5 minutes, perhaps ten. The children did not leave the room during that 5 or 10 minute period. It was at that time that Terry McCollum would leave the class room. After Miss Chapin had finished her class there was a corresponding little period. At that time Terry would come back in. Part of the time I observed religious education lessons. To a certain extent I observed what was being taught. I sat at my desk, as a rule. I did not try to instruct the pupils while Miss Chapin was teaching in the class room. The children occupied the same seats. She used the blackboard at times. The building was heated during that period in the winter while she was teaching. She did not bring a janitor with her.

The children who were to take religious education brought cards from their parents, signed by them, giving permission. I could tell from them which students were to take religious education. I saw them when they were brought back to school from the parents. The cards first came to me and I passed them on to the religious education teacher. I distributed the cards among the pupils when they first came in. They were left on my desk. Then the pupils brought the cards back to me after they signed them and I passed them on to the religious education teacher. I distributed them and I collected them, that is all. That was usually just before dismissal, at the end of the work day, and they were brought back to me in the morning.

[fol. 173] I was not required to teach an extra half hour in any week on account of the religious education. I was not required to spend more hours in the school room on the day Miss Chapin came in than any other day.

Cross-examination.

By Mr. Franklin:

The school day starts at 9 o'clock. I get there at 8:30. As a rule I leave at 4:30. I would say the other teachers make it a practice to be there at 8:30. I do not teach until 4:30. The building is heated when I get there in the morn-

ing. During the season when heating artificially is required normally it is kept up to a comfortable, proper temperature until 4:30 in the afternoon. Artificial light is used during the daytime only when needed. The room has windows in it. They all do. They are arranged so that the light falls over the left shoulders of the children. That is proper practice according to good educational opinion. We make use of daylight as much as possible in the class rooms. Artificial lights in the chool room are used only occasionally when it is a cloudy day. So far as I have observed they generally manage the religious education classes without using artificial light, the same as any other teacher would. We use it when we feel it would be injurious to the children's eyes to try to work at their desks without extra light.

As a rule janitors would come to the room once if we have lunch pupils or anything extra; they come in at noon and take care of everything that needs to be taken care of. It is customary to clean up the room once at the end of the day. The religious education classes did not add any janitor work in the Dr. Howard School.

[fol. 174] Redirect-examination.

By Mr. Chapman:

We have to turn the lights on on dark days. Miss Chapin used them on dark days the same as I did.

Q. Did you notice anything unusual with regard to Terry McCollum, any discomfort about him when he left the room and when he came back again?

Mr. Franklin: I object to that.

The Court: She may answer.

The Witness (Continuing): I felt that he wanted to stay in the room very badly. He showed an interest in the religious education class, he did not seem to want to leave. He wanted to see every move that was going on in the room, to see what they were doing. I do not recall that he every stayed in through the class. I do not remember if he ever stayed in the class and participated. I do not recall that he ever inquired of me about this religious education class.

He was poor in his work when he came to my class. I made some effort throughout the entire year to have him

catch up with it. I never talked with him with reference to the probability that he might be able to take this religious education course if he would get caught up with his work. I talked to his mother, never to him. I discussed with her the fact that allowing him to take the religious education course might help him to become a member of the group. He was not accepted as a member of our class. I thought if he did the same things that they were doing that might help. He did not take it.

The course that was taught there seemed to interest the children very much. They seem to like Miss Chapin. Her classes were not any more entertaining than any other class in school. They were interesting.

[fol. 175] Recross-examination.

By Mr. Franklin:

I observed him when he first came to my school in the fall of last year. He was a new student in that class. He never seemed to be accepted by the other youngsters from the beginning. I do not recall if it was from the very first day. It is usually pretty informal at that time but I would say yes. The religious education classes never start the first week. I do not know the reason. I do not know how soon after. Even before the religious education classes started it was apparent that James did not fit into the group in that school. He never did get assimilated into that class. He came to me with a history from his mother of not being able ever to get along with other children. I never observed anything about him or his relations with other children, or what they may have said at any time which would have indicated that the presence of religious education classes had anything whatever to do with his non-acceptance by the group. No child ever said to me or in my presence anything to indicate that his attitude toward James was affected in any way by any religious differences between them. I never heard James' non-belief in God mentioned in my school room or about the school premises or anywhere by any person. It was a matter of concern to me that James' attitude toward other children and their attitude toward him became worse as the year grew on. I made an investigation to get at the bottom of this thing and to help them. The children did

not seem to like him from the very first. He was a stranger to them when he came into the room. When they would get into trouble I would ask the other children what was the cause, and they would say James had called them names, James had kicked them and punched them and he spit in [fol. 176] their faces. That accusation was made more than once, that he spit in other children's faces and they just would not take it. None of these children ever said that they did not like him because he or his parents did not believe in the Almighty God or anything of that sort. It was not any religious matter. No religious matter was ever discussed.

The other youngster who did not take the course the first half of last year was Elwin Miller. He was a stranger in the class then. He had just transferred from the Lincoln School. He did not take the religious course during the first half of last year. The children accepted him from the beginning. He was liked and included in their games, in everything they have. He was treated exactly the same as James was so far as religious education courses were concerned. I do not believe that James' non-participation in the religious course or the existence of those courses in the school had anything whatever to do with his non-acceptance by his classmates. I do not think it subjected him to any embarrassment of any sort at any time.

Redirect-examination.

By Mr. Chapman:

Q. When you suggested to James' mother that if he would take the religious education course it might help him to become more acceptable to other students what did you have in mind at that time?

Mr. Franklin: We object to cross-examination of this witness by Mr. Chapman.

The Court: I will allow her to answer.

The Witness (Continuing): I made that suggestion just as I made the suggestion that he become a member of the Boy Scouts Troop in our school. I thought it might help [fol. 177] if he would be in the group and worked with them all the time, it might help him.

The other boy joined in with the group during the second semester.

SARAH GRACE JORGENSEN, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Sarah Grace Jorgensen, 507 South Highland, Champaign, Illinois. I am a part time teacher in the religious education course in the public schools of Champaign. Last year I taught in the Lawhead, Marquette, Wolfe, Switzer, Gregory and Junior High. These are public schools in Champaign. I teach under the supervision of Miss Mae Chapin. I teach 30 minutes in the grade schools for each class and 50 minutes in Junior High School. When I appeared in the grade schools, in two of the schools, the class and I went out of the room; in two or three of the schools we went out of the room; and in other classes, the teacher stayed in because nearly all of the children took the education, in fact all of them did. In the Marquette, the children went out of the room with the teacher. I taught in classes where nearly all the children took the religious education course. That was the Frances Willard School. There were only 3 class rooms in that school, the 4th, the 5th and 6th grades. There were other class rooms in that building. I taught religious education only in those 3 grades.

I followed the same outline that Miss Chapin follows. I heard her testimony yesterday. I teach substantially the same things that she says she taught. I teach the children [fol. 178] that the earth was created by God. All I say that it was in the beginning. I teach that man and woman was created on the last day; that their names were Adam and Eve. I do not explain to the children that the story of Adam and Eve may not be true, nor that Adam and Eve may not have been the first man and woman. In talking to the children, I try to use language that they can understand. I do not try to explain the word "God."

Q. I am asking what you mean when you use the word "God".

Mr. Franklin: We object. It does not matter what this lady means by a term. What she says to the children is an important issue.

The Court: Objection overruled.

A. I simply use the word "God" as it has always been used. The children come to school with that "God." Therefore, I do not explain it. God is a person.

Mr. Chapman: I move that the answer be stricken.

The Court: I am going to permit him to ask you, inasmuch as you said you taught, what in your mind you mean by "God" as near as you can explain that.

A. A Supreme Being in whom I am willing to worship.

Q. Do you mean a man with supreme powers?

Mr. Franklin: Objection. She has not said anything of the kind.

The Court: Sustained.

The Witness (Continuing): It is something outside of ourselves, something higher to which we can appeal; and I think that is the idea that the children get; some person or something else which stands ready to help them or something we can go to.

[fol. 179] Mr. Franklin: I move to strike the last answer as to what she believes the children understand about God.

The Court: That part will be stricken. What she believed the children understood, is a matter of conjecture.

Q. Do you mean by a "Supreme Being" that God is something to which a man or woman may appeal and say prayers?

Mr. Franklin: Objection. It is cross-examination of his own witness and it has been asked and answered twice.

The Court: She may answer.

A. Yes.

Q. Do you mean that it is a being or thing which governs man and woman?

Mr. Franklin: Objection.

Mr. Peterson: The Supreme Court of the United States has said that we believe in God in these United States.

The Court: It has been answered, but I will let her answer this.

A. I might say this with qualifications.

Mr. Franklin: I move to strike that answer.

The Court: Let it stand.

The Witness (Continuing:) I am not able to go into that any further.

Q. Do you teach any relationship between God and Man? Is there any connection between the two? Is God able to help you in any way or able to help children or are they able to exercise any influence over him by praying to him or appealing to his decisions or anything of that kind?

Mr. Peterson: I object to that as multiple.

[fol. 180] The Court: Objection sustained, and on the ground it has already been covered.

This court will take notice that the answer to that question would be yes.

Mr. Chapman: I offer to prove that she teaches the children faith and obedience to God.

The Court: You did not ask her that question.

Q. Did you teach the children obedience to God?

Mr. Franklin: Objection. There is no evidence upon which to base that cross-examination, if he is entitled to cross-examination. This witness has not refused to answer any of his questions. There is no reason to call her hostile.

Mr. Chapman: Her very position makes her a hostile witness, the fact that her employment would be abolished by this law suit.

The Court: Objection sustained until it has been demonstrated she is withholding information.

The Witness (Continuing:) I taught that the children are to obey God, the good which God stands for or the Supreme Being. I do teach obedience to God. With reference to possible reward or punishment, I say it is his own conscience that is there to take care of him. If he is doing the thing that is right, his conscience will say so. That means that God is satisfied. That is the way it seems to me, that God is part of your conscience. I would say that I teach that if they do not obey God, punishment will follow. It is like putting your hand on a stove, you will be burned. I teach that the punishment will be in the natural course of events. I teach that God will have something to do with punishing them if they sin. I have never mentioned Satan. I do not mention Hell when I teach religion. I do mention Heaven. I mention reward for obedience to God. I teach [fol. 181] that the child is rewarded through God. If he is doing some certain thing that is good, he is rewarded in that he is given a bigger opportunity to do something greater. I teach that God is giving them a reward, that

anything may be withheld because they have not done certain things. I try to teach them on the positive side, not the negative. The only book they can use to find out what God wants is the Bible.

I teach them with the Bible and also with cards. I say that the word, the Bible was written because of certain people who had the power to do it, and God's hand was in the power to do it. Studying the Bible to try to get out what was written is one of the things we have worked on.

I teach with reference to Jesus Christ. I teach the Christian religion. I do not distinguish between it and any other denomination when I teach Christian religion. I explain that there are other denominations. By "Christian religion" I mean pertaining to the Christ action, toward being Christianlike, something that would be like Christ would be. I teach that the Christian religion includes a belief in Jesus Christ. A Christian is a person who believes in Christ, but you may do Christianlike acts and not be a Christian.

Q. His religion would not be different from any other religion?

Mr. Peterson: Objection as being argumentative.

The Court: Sustained.

The Witness (Continuing:) I do not call all good acts Christian, but they are good acts and would be done by a person who did as Christ would want them to do. I teach that there was a man called "Jesus Christ;" that he lived [fol. 182] with flesh and blood, that God was his father, that a woman named "Mary" was his mother; that he had some unusual traits or powers, that he performed some miracles, that he healed sick people. That he raised dead people and caused them to live. I do not teach that such powers could be or can be acquired by other persons, but he left that power to some of the people when he left the earth. I do not teach that he left it to all people. All the people were not capable of taking it.

I do not teach anything with reference to his baptism. We say Christ was baptised and that is all we ever say about it. When I speak to the children, using the word "baptised," I mean using water. I do not know how Christ was baptised; maybe he was put into the water and maybe he was not. The only thing taught about it or mentioned is that Christ was baptised by John the Baptist in the River Jor-

dan. I can't remember a single instance of the children asking me what I mean by "baptised." They had the pictures, etc., and saw John the Baptist and Christ.

I believe we are taught from the Bible that people live after they die. I do not teach everlasting life. We have certain outlines to follow and I do not talk about everlasting life. I do not believe that I teach them anything with reference to people living again after they had died. I teach them that Jesus lived after he died once, that he rose on Easter Sunday, 3 days after he died. I taught that afterwards he was seen by certain disciples, afterwards ascended to Heaven to the sky and disappeared from the earth. I think I just said that he rose after he had been with the disciples a certain number of times and we believed that he ascended into Heaven. The children understand Heaven as the sky, going up into a place higher than the earth; [fol. 183] the sky, that is the blue covering over our heads. I do not teach anything more as to what became of him after he came up into the skies.

With reference to children being able to come in contact with him after he had gone up into the sky, we have the prayer where he says in Jesus's name, asking a prayer that he do it for Jesus's sake. We do not teach that Jesus is within hearing distance of them when they say prayers, we assume that they have that.

Mr. Peterson: I object, and move to strike. She says that she does not teach those things. The rest of the answer is her opinion and conclusion.

The Court: Let the answer stand.

The Witness (Continuing:) I do not teach them prayers except the Lord's Prayer. I teach that Jesus has all influence over their lives. I do not go any further to teach them how Jesus exercises any influence over them now. I do not tell them how he can do that. I do not teach them anything else with reference to their relationship with Jesus. We tell stories so they get the idea of faith. As an illustration, I could tell of when Moses was taking his people across the Red Sea, how they went across on dry land. I tell them that they had faith that God would take them through.

I teach the Christian religion of Christ's time. I do not endeavor to give the religious views of people who live today.

Cross-examination.

By Mr. Franklin:

In teaching of the creation of the world and of Adam and Eve, I teach that as what the Bible itself says regarding them. I do not urge it upon the children as my personal beliefs, I read it from the Bible and they take their interpretation. When I teach the story of Moses and the people [fol. 184] crossing the River Jordan, I read the story from the Bible or from the story book taken from the Bible. That is what I mean when I said I tell the story to the children. I do not urge it upon the children as a matter of my own personal belief or that they adopt it as their own belief.

I have never taught any Mohammedan children in my class or any who believe in the Zoroastrian Zend-Avesta. I have none who believe in that form of scripture or any who believe in the Hindu Veda. None in my charge believe in Allah or Ormuzd or Brahma. I have none who are confessed Atheists that I know of.

Q. Have you ever practiced proselyting upon any atheist child or upon any of the believers in religious faiths which I have mentioned?

Mr. Chapman: Objection.

The Court: Sustained, she said she had not any.

Q. Have you ever proselyted for any particular religion?

Mr. Chapman. Objection. That calls for a conclusion.

Mr. Franklin: It is a conclusion in their own pleading.

The Court: Objection sustained.

The Witness (Continuing:) I have never attempted by word or act to change the belief of any child from one form of religion to another. I have some children in my classes who are Lutherans but I do not know whether they belong to St. John's Church. I have never had any Quaker children. No child in my classes has ever expressed to me a feeling or belief that I was attempting to teach them something contrary to their conscience or their own religious belief or that of their parents. We never mention the different religions. We steer away from certain things that would [fol. 185] not include them all. Religious tolerance is one of the objectives of the courses. In referring to that we probably take in the ethical teachings of the Bible, or the

Bible content; we get at it from the ethical standpoint; that the children are going to work and play together, and then as we go on develop it into the best citizens it is possible for them to be; that they are to be tolerant sympathetic, kind and honest. We teach them to respect other persons' religious beliefs, that is what tolerance would be. I at no time attempt to place my own personal interpretation upon the subject matter of the Bible. I do not attempt to place any doctrinal interpretation upon the Bible consistent with my own belief or that of my own church denomination. We do not speak of churches or denominations. I do not attempt to teach the doctrine of my own denomination in these courses. I am affiliated with the Christian church. I also work in the Methodist Church and I taught at the Presbyterian. I am married to a Lutheran.

Redirect examination.

By Mr. Chapman:

I know a little about the doctrines and teachings of the Methodist Church, a little about the doctrines and teachings of the Presbyterian Church and very little about the Lutheran. I know a little more about the doctrines and teachings of my own church, the Christian Church. I am familiar with the doctrines and teachings of churches with which I have had connections. I am not familiar with those churches with which I have not had any connections.

I do not interpret the scriptures in any way. There are some things that we all interpret, that we interpret with all the other churches that I know of. The churches that I do [fol. 186] not know would certainly have the same principles, at least the Gospel, etc.

Q. With reference to your teaching about Jesus, what about these things you people do not teach to the children?

Mr. Franklin: She has twice stated that she does not place any interpretation upon Biblical material. He is now assuming that she does interpret. I object.

The Court: Sustained.

The Witness (Continuing): I do not teach anything I do not believe myself. I do not believe every doctrine that was taught by every church that I know of. With reference to our teaching with respect to the religious beliefs of others, we teach that it is their religion and therefore

whatever they believe, if they act according to it, they are going to be good people, no matter what church or where they belong.

Q. Do you mention anything in discussing tolerance, with reference to present day religious persecution, with Jehovah's Witnesses, for instance; with reference to their being sent to jail for refusal to enlist in the army or for being conscientious objectors, or to being arrested for refusing to apply for licenses?

Mr. Franklin: I object.
Mr. Peterson: I object.

A. No.

The Court: Objection sustained.

Q. Are you familiar with present day religious persecution?

Mssrs. Peterson and Franklin: Objection.
The Court: Sustained.
The Witness (Continuing): To qualify myself to teach religion, I have had college work, normal work, I have taught in public schools and I taught in the Junior High [fol. 187] schools. I did not teach religion up until this last year.

Q. Have you made any study of present day religious persecution?

Messrs. Franklin and Peterson: Objection.
The Court: Sustained.
The Witness (Continuing): To prepare myself to teach religious tolerance, I studied the Old Testament courses at the Hillel Foundation, a 2 hour course under Dr. Sachar and Rabbi Golden. I have not taken any special work as far as Christian religion is concerned. That is the extent of my study in preparation for teaching religious tolerance.

Q. Do you teach religious tolerance as including anything with reference to anti-semitism?
A. We teach tolerance for every other person, regardless of his religion, whether he has a religion or not, it makes no difference.

Mr. Chapman: I ask the answer be stricken.
The Court: I will let it stand for the present.

The Witness (Continuing): We teach a great deal of tolerance for the Jews. That is what our religious basis is built on, on Jewish history. That is what we teach in the first year, the 4th grade. That is our history, that is where we get our stories. We do not just teach tolerance—because we have so much respect for the Jews and their Jewish religion. We get the story from the Old Testament. We do not get any from the year 1944 to 1945.

As far as I know, not a child in the class signed a card showing a belief in Allah. Each person who signs the card indicates what his religious affiliation is.

[fol. 188] Recross examination.

By Mr. Franklin:

If they have no particular religious affiliation, they say so or else do not sign the card. What we seek to learn there is if the child has some formal affiliation with some church. Those are the cards their parents sign if they request that they be admitted to the Protestant Religious Education classes. I attended Western Normal School for 2 years. Then I came to the University of Illinois for 2 more years and received a bachelor degree. After 2 more years of attendance, I received a Master's Degree in psychology. I have about 2 units at the University on a doctor's degree. I have normal education in religion at Hillel Foundation, that is Jewish.

Q. What is your own personal attitude with reference to tolerance of Jews?

Mr. Chapman: I object as to her attitude.

Mr. Franklin: She has testified that she teaches religious tolerance. I have a right to find out whether she really believes or whether she is just begging the question.

The Court: Objection sustained.

The Witness (Continuing): I guess that my study in the field of psychology did have an effect upon my attitude or tolerance toward other people and their beliefs. It made one broader, stretched the imagination to take in these other fields. I am able to do that freely and wholeheartedly. In the field of public education, I taught 6 years in McCook, Ill., the primary grade. I took training at a class in kindergarten, then I came to the Champaign schools

in 1909 and taught to 1930 with the exception of 2 years. I started in the primary grade; then took charge of the supervision, then went into the Junior High School.

[fol. 189] Q. Do you believe that religious education courses as taught in the public school buildings of School District No. 71 are beneficial to the students therein enrolled?

Mr. Chapman: Objection.

The Court: Sustained as beyond the purview of cross-examination.

Q. Do you believe the courses in religious education by the Champaign Council of Religious Education are of educational value to the children enrolled therein?

Mr. Chapman: Objection.

The Court: Sustained.

Redirect examination.

By Mr. Chapman:

Q. In this formal study or preparation qualifying yourself for additional work, have you studied the matter of religious persecution?

Mr. Peterson: I object to the characterization of anything as "persecution".

The Court: We can take judicial notice; if the witness understands she may answer.

Mr. Chapman: She said she teaches religious tolerance and testified as to her qualifications.

Mr. Franklin: I am opposing Mr. Chapman's having the privilege of cross-examining his witness.

The Court: The objection will be sustained.

RETA CAMPBELL, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Reta Campbell, 610 W. Healey, Champaign. I am a teacher at the Colonel Wolfe School, teaching fifth grade. There is one fifth grade class there. I have taught

[fol. 190] there six years. Mrs. Jorgensen taught religious education last year. She did not teach in my class room. She taught some of the members of my class, about half. The course was given in a room across the hall that was not being used. It has seats in its like the other rooms. At times it is used for music. It is not used for art; we have art in our own room. That room was used only for music and religious education last year. Religious education was taught to fifth graders from 9:30 until 10 in the morning. I start instruction at 9 o'clock. At 9:30 I sent my children to her. She came there to teach once a week for half an hour. The other students stayed in my room during that time, doing things that were interesting to them. The children who attended class in religious education were not given any extra work to do by me.

Q. So that when they took religious education they simply dropped out a half hour?

Mr. Franklin: I object to that as a conclusion.
The Court: Sustained.

Q. This half hour was a half hour deducted from their every day training?

Mr. Peterson: Objection.
The Court: I think the question improper as calling for a conclusion.
The Witness (Continuing): I began classes at 9 o'clock in the morning and stopped for lunch at about a quarter of 12, resuming teaching at 1:15 in the afternoon and going until about ten minutes to 4, last year. Religious education class was held on Wednesday. I did not spend any more hours on Monday or Tuesday than any other day. School hours are the same every day throughout the week. [fol. 191] I did not determine which students to send into Mrs. Jorgensen's class, the ones who wanted to go went. They were excused from my room. They decided for themselves. We had notes from the parents which were brought to me by the child. I do not remember whether I gave those notes to the principal, I suppose they went to the principal.

Mr. Franklin: We move to strike what she supposes.
The Court: It will be stricken.
The Witness (Continuing): The notes from the parents were kept together and given to the persons who would be

supposed to have them; it must have been the principal. I am not sure about that, whether the principal or Mrs. Jorgensen, one or the other. I would give the children blanks to be taken home for the parents to fill out. When I excused the children to take religious education classes I saw them go to that class. I did not excuse them to go out and play at the time. None of them left the building during the period they were excused for religious education. The rest of the children in my class stayed in the class room. They did not have my permission to leave the building during that period.

WILLIAM C. BURSK, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is William C. Bursk, Tilden-Hall Hotel, Champaign. I am a Christian Scientist practitioner and am quite familiar with the teachings and belief of the Christian Science church.

Q. Tell us the meaning of the word "God" as it is used [fol. 192] by the Christian Scientists.

A. If you will give me that book I will tell you exactly what it means.

Mr. Peterson: Objection as immaterial to the issue.

The Court: I will let him answer.

Mr. Franklin: There is nothing in the record in this case to indicate that any Christian Science child participates in these classes.

The Court: There may be some children with Christian Science parents in the schools here.

The Witness (Continuing): The definition of "God" according to the text book is: "The great I am; the all-knowing, all-seeing, all-acting, all-wise, all-loving and eternal: Principle: mind, soul, spirit, life, truth, love, all substance, intelligence." I am referring to the text book on Christian Science, "Science and Health with key to the Scriptures," by Mary Baker Eddy. According to the teachings, the doctrine of Christian Science, Jesus was a human man, Christ was the divine idea, the spiritual man.

The name was generally used, Christ Jesus or Jesus the Christ, or Jesus Christ was the same. It was given in the Bible as such. They were all the same, with the exception that Jesus was the human man and Christ was the spiritual man or spiritual idea.

We take the Bible entirely as our guide with reference to the resurrection of Jesus; our teaching is that Jesus is the highest human corporeal concept of the divine idea. Jesus was the human man and Christ was the divine idea. We take the inspired word of the Bible as our all-sufficient guide to eternal life. We acknowledge Jesus as the attainment of the evidence of divine foundation of life. He was the only man who returned after what was supposed to be death. He was the spiritualization of thought, the new higher idea of immortality or spiritual existence. We ac- [fol. 193] knowledge him as the savior of mankind. We acknowledge him through God in healing the sick.

We teach that he was crucified and appeared back in life to the disciples after three days in the tomb, according to the record in the scriptures. I do not believe that all people die and come back to life again as mere creatures. I do not know what the others believe regarding that. I am generally familiar with the teachings of Christian Science with reference to resurrection. The human man does not come back to life again after he dies.

I cannot answer definitely what the Christian Scientist teaching is with reference to baptism. I am not generally familiar with that doctrine. The definition given here of baptism is: "Purification by spirit submergence in spirit," as taken from II Corinthians, Chapter 5, Verse 8. We do not teach baptism as immersion in water or sprinkling of water. We do not think that Adam and Eve were the first man and woman.

Cross-examination.

By Mr. Peterson:

The Christian Scientists use the same Bible that contains the story of John the Baptist and his baptism of Christ that has the story in it about the creation of man. They use the so-called King James version of the Bible. They believe in tolerance toward other religious faiths. We believe that everyone should have the benefit of the studies and explanations of other known religions that are practiced in the

community; that children should have the same opportunity to study the Bible if they so desire as an adult. I cannot answer whether the Christian Science church has any objection to the voluntary religious education system as conducted in some schools.

[fol. 194] Rev. Clarence J. Higgins, called as a witness on behalf of relator, being duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Clarence J. Higgins, 409 W. Clarke Street, Champaign. I am pastor of Holy Cross Catholic church, Champaign. I have been in this occupation 31 years and pastor in this church 6 years. I am familiar with the religious education classes taught in the Champaign public schools. About five years ago I was a member of the committee that arranged for that. Time is set aside for teaching children of Catholic parents. My assistant or I teach them. In some schools we have no children in attendance.

Last year we were in three schools, Junior High, South Side and Columbia. At South Side we taught fourth, fifth and sixth grades. They were combined. There were only five out of the three grades. They were all instructed at one time. A room in the basement was provided, I presume by the principal. Miss Chapin made the arrangements for us. I do not know if the room in the basement was used for anything else. It could be used for other things. It was furnished with chairs and I believe a table. I presume they were furnished by the school authorities. They were not furnished by me, the Catholic church or the religious council.

At Columbia School there were between three and five students. We had the same arrangement there. There we had a small room, the music room. One class a week was taught there on Friday afternoon from 3:20 to 3:50. The building was occupied by other students at the time. At [fol. 195] South Side the class was Thursday afternoon at 1:15. It ran thirty minutes. The building was used by other pupils during that time.

At Junior High we had ten or twelve pupils. They were taught Friday afternoon at 2:25. Ordinarily my assistant

went to Junior High and I went to Columbia. At Junior High a room was provided, a class room furnished with desks, table and blackboard. I do not know whether it was ever used for anything else, but I took for granted that it was. The class ran approximately thirty minutes.

The teaching was religious, in conformity with the Catholic faith. There were only Catholics present.

Cross-examination.

By Mr. Franklin:

I believe in religious toleration, it is a part of the Catholic teaching that I teach in my religious education classes. We teach love of God and love of neighbor which necessarily contains tolerance, and also specific tolerance. I believe that it has the effect of broadening religious tolerance of children who are enrolled in my classes.

Mr. Chapman: Objection, and I move to strike the reference to what he believes.

The Court: Objection sustained as not being cross-examination.

Mr. Franklin: When you put a witness on the stand and open up the subject of what he teaches we have a right to inquire whether it includes religious tolerance and whether or not it affects the children's attitude with reference to religion.

The Court: You have been permitted to show the teaching of tolerance. The rest is beyond the purview of this examination.

[fol. 196] Q. What has been the effect on the community generally with reference to religious tolerance since these courses have been instituted by the Champaign Council of Religious Education.

Mr. Chapman: Objection.

The Court: Sustained, as beyond the scope of the direct examination.

WANDA I. BASH, an intervenor, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Wanda I. Bash, 512 South Highland, Champaign. I am thirteen years old and attend Champaign Junior High School. I am in the ninth grade.

Religious education was taught in the Junior High school last year. I took the course. Miss Chapin was my teacher. My regular school teacher was Miss Green. We have a different teacher for every class. The first period was my home period, 15 minutes, beginning 8:35 A. M.; the rest of the periods were 45 minutes long. Lunch was from 12:30 until 1:15. I was through at 3.09. There were nine 45-minute periods and a 15-minute first period. That was my regular routine from Monday morning until Friday afternoon. I am not sure, but I believe that the religious education class was the ninth period on Monday. I took the course throughout the year. Miss Chapin taught the class in one of the adjoining class rooms. I was excused for the purpose of taking the class. I took it in place of a study period. I went there instead of to the study hall.

Last year I merely signed up for the class. We were [fol. 197] given a blank and signed up. I believe the blank was furnished by the office to the home room teacher, who was regularly employed in the school. I filled it out and returned it to her. My parents were not required to sign last year. I took the course for a 45-minute period. I am taking it again this year, having signed up for it. I am studying Christian Protestant religion. I do not want to study the Mohammedan religion or any other kind. I attend the University Place Christian Church. Last year when I took the course we used a regular class room on the first floor. Other classes were held in that same class room.

Mr. Chapman: I want to say I am calling her as an adverse party.

Cross-examination.

By Mr. Peterson:

This is the fourth year I am taking these courses. The first year my parents signed a card. After that I signed up. My parents have known about it each year. They approved of it. I want to take this course. In taking this course, devoting 45 minutes of my time to it, it did not in any way interfere with my regular work in school. I completed all of my studies. The pin I wear is the honor society pin. Twenty students out of each grade are chosen by balloting by the teachers and the students and by grades. Scholarship is involved. There are over 200 in the eight grades. Some of them do not take this particular course.

I have never felt any criticism of other children who did not take the course. No one ever coerced me to take the course. It has been of my own free will. I feel it has been beneficial to me.

[fol. 198] Redirect examination.

By Mr. Chapman:

Several of my friends did not take the course. They were Janet Wiseley, Mary Kent, Mary Lou Terry and Joan Herron. I do not know how it came to my attention that they were not taking it. I just knew they were not. They said they did not. Some were in my class. I asked them if they ever took it. Miss Chapin is the only one who ever taught me religious education. None of the other children ever said anything to me and others about taking the religious education course. We were given a schedule from the office of the principal of the school showing what room to go to for religious instruction. I do not know where the principal got the schedule.

I found this course was beneficial. I think it is interesting and that I have really learned something from it. It helps me get along with other people better. I think I found it easier to get along with people after I had the course in religious education. I mean I would get along better with all the people, not just the people that would take the course. I did not find that religious education helped fix the friendship with other people who were taking the course any more than with people who did not take it. I

would say it helped both those who did and those who did not take it.

Q. Did you observe that you had any more difficulty in getting along with the people who took the course than those that did not?

Mr. Franklin: I object.

The Court: She may answer.

The Witness (Continuing): I do not think so. I feel that it improves my friendship with everybody, with those who [fol. 199] did and those who did not take the course.

Recross-examination.

By Mr. Peterson:

I do not think I discussed with any of my girl friends the question of whether or not they were taking this course until after this lawsuit came up. We discussed it back around May just casually. That was while the course was being conducted. I do not remember any of the other people asking me if I was taking it. I also asked some of the others whether they were taking art and other subjects that were being offered. We discussed what we were going to take and what the hours were going to be, things like that.

Redirect examination.

By Mr. Chapman:

I don't remember if the Jewish people took it too. I don't know if the Catholic children took it. I think all my classmates in the religious education class were Christian Protestant.

Recross examination.

By Mr. Franklin:

The friends I spoke of, Janet Wiseley, Mary Lou Terry and others who did not take the course were friends of mine before the religious education class was offered. They are still my friends. The religious education classes and their failure to participate in them has not affected in any way my attitude toward them or theirs toward me.

Redirect examination.

By Mr. Chapman.

Q. Did you get any school credit for taking the course?
A. Yes, I did.

Mr. Franklin: Object, and move the answer be stricken, [fol. 200] there being no sufficient foundation and it being a conclusion.

The Court: The objection is sustained.

Q. You mean it was part of your schedule, don't you?
A. Yes, sir.
Q. Did you receive any credit in this religious education with reference to graduation?

Mr. Peterson: The same objection.

The Court: For the time being I will sustain the objection.

The Witness (Continuing): After I received my schedule and took the course I did not receive from the school any other credit or papers with reference to religious education. I received a nice book from my teacher in religious education as a reward. I received no credit on my regular report card. There was an extra report card for religious education bearing a grade. Mine was "A". I received no credit from anybody else. No mention was made of it on my regular report card. The report cards relating to religious education were distributed by the religious education teacher.

Rev. Alva R. Cartlidge, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Alva R. Cartlidge; 305 W. Hill Street, Champaign. I am a clergyman, pastor of the First Presbyterian Church in Champaign, and have been for over six years. I am familiar with the religious education system in the Champaign public schools. I was one of those who helped bring it about. I am a member of the committee that [fol. 201] *were* given supervision of some of the work in

connection with it. I am chairman of the personnel committee. The duties of the personnel committee are to select and approve teachers for the courses in the Protestant group. The other member of the committee is Mr. Bottomfield. We approve the teachers who teach the Protestant religion in the public schools. We have hired one new teacher this year, Mrs. Barry. We inquired about her qualifications in hiring her. We take into consideration the general education of the individual. We want someone who is on a par with the educational standard of the teachers of the school in which she teaches; the general personality and attitude of the person, so that we will have someone who will keep the harmony and will meet the approval also of the other groups participating in the courses. We want no one who will produce religious bigotry or religious hatred or animosity either in the children that they teach or any antipathy toward them or toward the other faiths that are participating. We do not want to have that kind of person in. That is what we take into consideration.

I do not recall inquiring into what church Miss Barry belongs to. I was not interested. I know that she is a Protestant. I know that Miss Chapin is Protestant because she is a member of my church. I have known her for six years. She has taught in the schools here approximately three years. It is only natural that one of the first things I found out about her was her church affiliations. Mrs. Jorgensen is Protestant. I have known her about two years. I first found out she was Protestant two years ago. We have not hired anybody but a Protestant to teach the Protestant religion.

[fol. 202] I have examined the outlines that are used in teaching the Protestant religion in the public school. The ones I have examined met with my approval. If they did not I think I would indicate to the teachers what I did not approve. The curriculum of the courses is in the hands of another committee. My duties once a teacher has been hired, are primarily to consult with the supervisor on the question of keeping the teaching staff in the schools. In these consultations I take into consideration the material brought by Miss Chapin, the supervisor.

The organization I belong to has contributed to developing the teaching of religion and religious education in the public schools. The council has raised funds and pays the Protestant teachers. The teachers receive no compensa-

tion from any other source for teaching religion in the public schools. I do not pay any money to Catholic teachers or Jewish teachers.

The organization has three elements, the Protestant, Catholic and Jewish groups. The over-all organization is known as The Council on Religious Education and has representatives on it of all of these groups. We ask the individual groups to send their representatives to this over-all organization, and they do. Under that there are three groups. We have a Protestant work committee, a Catholic work committee, and a Jewish work committee. Representatives of the various groups of each denomination or religious group are upon these committees. In the formal organization we have several committees. There is the curriculum committee, personnel and finance. On the curriculum committee are representatives of the Catholic, Protestant and Jewish denominations. On the personnel committee there are representatives. The Rabbi is out of town now; he has been transferred, but when the new Rabbi [fol. 203] comes we will have him upon that committee, so that it will be representative of the three faiths. The curriculum and finance committees are made up of representatives of the three faiths, considering the general problems of all. The purpose is to examine personnel and curriculum so that nothing prejudicial to any one of the groups or intolerance to any one of the groups shall be presented through personnel or curriculum. We check with one another on that basis.

The Protestant, Jewish and Catholic groups have their own curriculum committee, finance committee and personnel committee, so that in a way they can go along by themselves and still be checking through the over-all organization.

The over-all organization has representatives from the various denominations. It does not have representatives from all the denominations in Champaign. The members of the committee are not elected by public vote or secret ballot. Nor do all the voters in Champaign have the privilege of voting. In my church, the Presbyterian, we have representative system of government. We elect a session and a board of elders, which governs the local church. The session is empowered by constitution in all spiritual matters, and selects its representatives for the council by a vote at its meeting. The congregation elects the session, which

elects the representatives. I am appointed on the personnel committee by a vote of the representatives from the various bodies who make up the Council of Religious Education.

Cross-examination.

By Mr. Franklin:

The interest for the organization of this council originated from the whole community. At that time, approximately five years ago, there was quite a discussion in the [fol. 204] newspapers and in private circles of the problem of juvenile delinquency. There was such a problem in this community at that time. Youngsters were being taken into court and put into jail. At that time, in my opinion, the teachings in the religious groups of the community did tend to correct that evil. Approximately 60 per cent of the children of school age were reached in that way for approximately half an hour a week. The Champaign Council on Religious Education and meetings of religious leaders in other places discussed that problem. We did not feel that time was sufficient to meet the evil existing. We did not feel that these periods of religious education were accessible to a sufficiently large percentage of children of school age. This was a contributing influence to the inauguration of religious education classes such as are now conducted.

The council recommended that these classes be held in the school buildings if possible because of the convenience of the children and the safety, the distance the children would have to travel were the classes instituted in the church. Their safety was involved because we have several of the schools that are quite a distance from the churches. In the Champaign school district there are three schools over a mile from any church. If the children of the Dr. Howard school were taken to the nearest church they would have to cross a state highway and many main streets and side streets, upon all of which there is vehicular traffic. There was a problem of pedestrian safety in this community at that time in connection with automobiles.

The council felt that the moral and ethical conduct of people is dependent upon the religious belief of people, and set forth that American democracy can only be maintained by strong character, honesty, truthfulness, depend- [fol. 205] ability, and things such as that, and we believe

that through the forces of religion that might be strengthened and our democracy be helped. It was our aim in carrying forward these religious education classes to strengthen the character of the people, advance their honesty, fairness and dependability. It was not our aim to indoctrinate any child with the particular belief of any religion or religious faith or cult. Our attitude was that the particular doctrines of particular religious sects was our concern and not that of our council.

I stated that not all denominations or religious beliefs are represented in the council. All are free to participate and we are anxious to have them. No religious denomination or recognized church or belief has ever sought membership or participation in that council whose membership has not been freely accepted. All denominations that we knew about in the community were invited to participate. Letters were sent to all that we could find and personal calls were made. The St. John's Lutheran Church of the Missouri Synod, whose pastor is Reverend Kaiser, is welcome to participate and we would be delighted to have them. I do not know whether they are members as yet. I understand they have indicated their intention to join. The Jehovah's Witnesses are welcome to membership. There were no conditions, monetary or otherwise, placed upon participation in or membership in the Champaign Council on Religious Education.

I have not had occasion to voice any objection to anything found in the curriculum. I did not mean that I reserved the right to see that what was taught in these courses was what Presbyterians believed as distinct from some other religious denomination. It is not the purpose of the council to teach the doctrines of any particular church. [fol. 206] Rather it is the purpose to teach them the things in general which are common to the beliefs of all participating denominations. We do not attempt to teach only the things that are common to the Protestant, Catholic and Jew, but to teach such things as are common to all. Our policy is not to mention the differences upon which the religious denominations deviate. We consider tolerance of other persons' beliefs the objective of the whole program. In practice the effect of these courses upon the children participating therein has been a feeling of appreciation that others are participating in a religious movement. With that comes a sense of solidarity to and with society in par-

ticular and their juvenile group. I think that the children who have taken these courses are more willing to concede to others the right to differ from them on matters of religious belief than they were before they took the courses, because it puts all of the religious groups in an enterprise, in a cooperative enterprise, and because each group, irrespective of its size or financial strength or background is equal here in standing. I think the cause of religious cooperation among the different sects, beliefs and church denominations has been advanced in this community since these religious education classes have been started, emphatically. From my own personal experience in my contact with many Jewish and Catholic brethren I have found that we understand them much better, that I have made friends with them and we can talk in perfect harmony on a great many things of particular community interest. I attribute to these courses cooperation between the church denominations in other matters. After we had started this Council on Religious Education and met with the various groups we found, from a movement which had started from a ministerial association [fol. 207] encompassing the groups, that the laymen of the various groups were ready to cooperate in a new organization which is called the "Interchurchmen's Council" of Champaign and Urbana, which represents all faiths. They meet and cooperate. I think it is an expression of the general spirit of American democracy, religious tolerance, cooperation and understanding.

I was the first president of this council. During my term I found people who objected to religious education classes being conducted in the school buildings as they are. Mrs. McCollum called me on the telephone. No other person objected.

In setting up this system here we modeled it after the movement that has been taking place throughout the country. There were religious education classes in 46 states, according to the International Council on Religious Education, in well over 1,000 school systems.

Redirect examination.

By Mr. Chapman:

The "Interchurchmen's Council", in which laymen cooperate, is the only council of that kind in the vicinity. There is no organization that I know of opposing religious

education in the public schools in Champaign, nor is there any organized movement against it that I know of. This religious education has helped me to understand the Jews and Catholics better. I was not taking the course in the schools. The Council on Religious Education has advanced understanding amongst the clergymen and religious people of the commu-ity. I say that this religious education in the schools has something to do with cooperation between Catholics, Jews and Protestants. I have found that it helps students to cooperate better with each other. The Catholics go to one group, the Protestants to another and the Jews to another. That helps us to cooperate. They are [fol. 208] put in different classes, because they differ in many things.

I do not believe that the matter of conscientious objectors during the war has been considered by this council. I have not said that that is not included in the religious tolerance. I said that was in the program of the council, but I will not admit of the fact it does not prove religious tolerance. As illustrative of what has been done in the way of teaching religious tolerance in the schools: A group of young people who were in these courses under Miss Chapin were concerned greatly with the problem of racial antagonism between Negroes and Whites. Under her leadership—this was not in the course but these young people were in the course and the course influenced it—they invited a group of Negro young people from a Negro church to meet with them in committee. They got along with one another and understand one another. I consider that a definite step growing out of the spirit of this enterprise, toward solving these antipathies. These were not Presbyterian Negroes. They were Baptists and Methodists. That is a specific instance. These Negroes belonged to a different church from the white people. The whites belonged to the Presbyterian. They met in the Presbyterian church. It grew out of the leadership of Miss Chapin in these courses.

Q. Was there anything to keep her from working in the church instead of the school?

Mr. Peterson: Objection as argumentative.

The Court: Sustained.

The Witness (Continuing): In the religious courses we endeavor to teach what is common to all. Whether we suc-

ceed I am unable to answer. I am not invariably familiar with what is being taught.

Mr. Franklin: I object on the ground that he is not [fol. 209] charged with having selected the subject matter in these classes nor with knowledge of that.

The Court: Objection overruled. I regard Mr. Franklin's examination as not cross-examination on the original examination, but original cross-examination—not permitted on cross-examination on these matters. I am not saying that Mr. Cartlidge was Mr. Chapman's witness, I am saying under the circumstances counsel got into more or less new matters brought out as if under cross-examination.

The Witness (Continuing): I am not aware that anything is being taught in the public schools of Champaign in conflict with the teachings of the Presbyterian church. I said that the Lutherans may participate in the organization and may teach in the schools too. I do not know whether they want to do so now or not. I said I heard it. I am ready to approve of them sending a teacher into the school. I would welcome the Lutherans but the council reserves the right in its cooperative movement with the Lutherans represented upon it that no prejudicial personalities or materials be put in the courses. We intend to protect the courses against antagonistic matter being taught. As far as we are able to we examine the material to be sure none is antagonistic to other religious organizations. I know of nothing which is being taught that is antagonistic to other religious organizations nor contrary to the creed of other sects.

When I said antagonistic I meant what was prejudicial, inciting contempt or hatred of other groups. I was thinking in terms of emotional disturbance upon the conflict that comes from our human relationships at times; not especially the matter of religion any more than labor or anything else in which human beings get together. We do not try to let [fol. 210] anything be taught that might start a fight. In this short course we have mutually agreed upon things as religious groups. In that we have unity. Then there may be things over which we may differ but over which we will not "scrap." Emphatically, there has not been a serious increase in diversity among the students who have been taking the religious education courses from those who did not.

We started with the Protestant, Catholic and Jewish all at one time. There were three teachers, one from each

group. I do not know that we have had an application from Jehovah's Witnesses to start another class. I answered before that I had heard that the Lutherans planned to start a Lutheran group. I have not had an opportunity to observe that the children of all the denominations are as well satisfied with Presbyterian and Methodist teachers as with a teacher of any other denomination. I have not observed the attitude of the Seventh Day Adventists toward the religious educational program in the Champaign schools. I did not even know they had expressed any attitude. I am not acquainted with them. I surmised there might be some in town but I do not know any of them. I do not claim to have taken in any of their doctrines into instruction because they have never applied to our council for membership. I have not inquired as to the attitude of the Quakers with reference to the religious education in the schools because they have never inquired of us. I have heard about the Unitarian church in Champaign. I presume that none of the religious teachers connected with this course are not represented by a church of some kind or are not affiliated with one of the larger churches here.

Q. What religion do you think is best for preventing juvenile delinquency?

[fol. 211] Mr. Franklin: Objection.

The Court: Sustained.

The Witness (Continuing): I have never looked into the question of whether one religion is better than another in dealing with juvenile delinquency. That question has come to my mind before. I would think that all are about equally good, speaking only of the ones within our council. I have had no contact with those outside of our council. I would say they are as good as those that are in.

Q. Let us take the Holiness Faith Healers. We have seen their pictures in the papers with snakes around their necks. Do you accept them as being just as good as Presbyterians?

Mr. Franklin: Objection.

The Court: Sustained. It has not been shown that they are involved in this particular controversy.

Mr. Chapman: I offer to prove by this witness that if he were allowed to testify he would testify that he regards

Presbyterians as better and more worthy than the Holiness Faith Healers.

Mr. Peterson: Objection, on the grounds that there is no showing that counsel has any foundation for the offer.

Q. In making your estimation and evaluation of religions, one being as good as another, do you accept the creed of the Holiness Faith Healers with their snake demonstrations on equality or par with the Presbyterians?

The Witness (Continuing): I would like to ask what the creed and the practices of the Holiness Church are. I do not know, so I cannot say whether I accept them as equal to my own. There were other denominations whose creeds I do not know well enough to compare with my own.

[fol. 212] Mr. Franklin: I object to the interrogation of the witness regarding any creeds or beliefs of which there is no evidence of their existence in this school district.

Mr. Chapman: The question of whether the teaching was secular or not does not depend on whether anybody in the school district agreed with it, but depends on whether there is a creed anywhere to the contrary. The New Webster Dictionary defines sectarian and includes not only believers but dissenters, any organized group.

The Court: Objection sustained, particularly on the ground suggested by Mr. Franklin, and I think there are other reasons why that question under the whole record is not proper.

The Witness (Continuing): With reference to this religious education class teaching democracy, our basic thought after God is that the brotherhood of man is the essence of all democracy. The Christian teaching that there is a Kingdom of Heaven I consider to indicate a democracy.

Q. Do you know anything about this religious teaching or the teaching of Christ that refers to officers of people being elected by the people?

Mr. Franklin: Objection.

The Court: Sustained.

Q. Can you point out a specific instance of anything taught in there that is democratic?

The Witness (Continuing): When I say democracy I am talking of the spirit and attitude, with an organization in harmony with the spirit and attitude. I state that the whole

thing is democratic. I am talking about political democracy because you cannot divorce politics from life or religion from life. I do not mean that politics and religion go together often.

[fol. 213] Q. When you speak of democracy are you speaking in a religious sense or a political sense?

Mr. Peterson: Objection.

The Court: He may answer.

The Witness (Continuing): I was considering them both. In connection with the religious education being taught in the public schools of Champaign County, everyone is representative and represented; they are all free to act; it is open to all on an equal footing. The political democracy which is being taught in these courses is the fatherhood of God and the brotherhood of man, which implies democracy. The fact that we teach the fatherhood of God and the brotherhood of Man implies democracy and relates to political democracy in the course. Besides that, the fact that all children who desire this course are welcome to take it or leave it alone if they so desire is evidence of democracy.

I did not say that the ethics of the children in the Champaign district have improved since the installation of religious education in the schools. I said the ethics of the children in the courses have improved.

Q. Can you name one child who has improved during the course?

Mr. Franklin: Objection.

The Court: Overruled.

The Witness (Continuing): I have a boy of my own who takes the course. I have found that when it comes to understand relationships with these young people, many of the things he has learned in this course make it easier for me to understand and to give him what I consider the ethical relationships between men.

Q. What was the condition of his ethics before he started taking the course?

[fol. 214] Mr. Peterson: Objection.

The Court: Objection sustained.

The Witness (Continuing): I think that I have seen a decided improvement in his attitude toward his sister.

Q. What was his attitude toward his sister before?

Mr. Franklin: I believe that has gone far enough.

The Court: Objection sustained.

The Witness (Continuing): This is religious education that is being taught. I do not know that that is instead of ethics. There is no separation between ethics and religion. The distinction is purely verbal, not in reality. I have read the dictionary definition and I know the distinction they make. There is no distinction. They are only parts of the same thing. I consider ethics as dealing with relationships of people with each other. Religion is the same thing. I would say that man's religion with God deals with ethics, and religion is the same thing.

May I state it this way: When I am on the stand I am a witness. When I go home I am a father or a husband. I am not different, but different terms are being used for different aspects of the same thing. When I say religion and ethics I am talking about different aspects of the same thing. Ethics are the relationships of honor, justice, truth, righteousness, understanding, sympathy, love, all of those terms which describe the values which we as human beings make use of as being liveable, ideal. Ethics is dealing with all those things in relationship between personalities and persons. Religion is the same thing because religion is relationship between Deity, who is a person or personality and other personalities that He has created. Ethics include the [fol. 215] relationships between man and his God. Morality and ethics are synonymous terms. Religion is the same thing, only in different aspects.

With reference to improving juvenile delinquency, the churches already have religious classes. They are kept from being able to deal adequately with the problem by lack of time. To discuss juvenile delinquency would take three or four days, to go into the real problem and the relation of the church to it. The reason for continuing these religious education classes in the schools instead of the churches is because of availability of the children of all denominations and religious groups. The children of all denominations attend the schools better than they attend church. We do not go there to reach children that do not ordinarily attend church. I have not noticed any increase in church attendance since the religious education was installed in the schools.

Q. What benefit have you observed with reference to an increase in religion?

Mr. Franklin: Objection.

The Court: Sustained.

The Witness (Continuing): I have not found the children more available to the religious education classes in the schools than in the churches. I would not say they are more available than for religious instruction. They are not available to the schools for religious instruction or education.

Q. It is not put in the schools for the purpose of being where the children are more available to it; is that right?

Mr. Peterson: Objection.

Mr. Franklin: It is argumentative.

The Court: Objection sustained.

[fol. 216] Q. Have you observed an improvement in the ethics or a difference in the ethics and morality in the juvenile delinquency among children who attend parochial schools and those who attend public schools?

Mr. Franklin: Objection, as not involved in this litigation.

The Court: Objection sustained.

Mr. Chapman: I offer to prove by this witness that he has not observed any improvement or any substantial difference between the juvenile delinquency of children that were attending parochial schools and those attending public schools.

The Court: He does not know anything about the delinquency of children in parochial schools.

A. No.

The Court: The objection to the offer is sustained.

The Witness (Continuing): I have read reports and sections of books that deal with the study by psychologists on juvenile delinquency in parochial and other schools but not relevant to the city of Champaign.

Recross-examination.

By Mr. Franklin:

I have ascertained that St. John's Lutheran Church are making application to the council. I understand that from

Rev. Kaiser. I cannot give you the exact number of how many different denominations are represented among the students participating in these classes in Champaign, but it is between 35 and 40 different denominations.

[fol. 217] ARTHUR G. CROMWELL, called as a witness on behalf of relator, having made affirmation in due form in lieu of being sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Arthur G. Cromwell, 440 Plymouth Avenue, South, Rochester, New York. I am an architect, the father of Vashti McCollum. I am a member of the sect of Free Thinkers of America, with headquarters at 440 Plymouth Avenue, South, Rochester, New York. I am familiar with their doctrine and teachings.

Q. What is the teaching of that sect with reference to Adam and Eve being the first man and woman?

Mr. Franklin: Objection, there being no showing in the record that any member of that sect is a member of School District No. 71.

The Court: Objection overruled.

Mr. Peterson: I object on the ground there is no evidence before us that the Society of Free Thinkers is a religion.

The Court: Objection overruled.

Mr. Franklin: There is no allegation in the complaint that Mrs. McCollum is a member of the organization.

The Court: Mr. Cromwell is the same person referred to in Petitioner's Exhibit A attached to the petition, wherein it states: "The relator adheres to the school of thought known as 'Rationalism' including atheism", and so forth.

Mr. Peterson: In that exhibit he specifically states that he does not have a religion.

The Court: The objection is overruled. We will hear the testimony subject to the objection.

[fol. 218] Q. State the doctrines and teaching of the sect known as Free Thinkers with reference to Adam and Eve being the first man and woman.

Mr. Peterson: Objection, unless it is confined to the Rochester Society of Free Thinkers, of which he is a member.

The Court: Objection overruled.

Mr. Franklin: I object, for the reason that the question assumes that the Free Thinkers Society, or Free Thinkers generally, are members of a sect.

The Court: Objection overruled.

A. We believe the Adam and Eve story is entirely fictitious and founded upon superstition. Adam had nothing to do with our ancestry, and especially the beginning of the earth.

Mr. Franklin: I move to strike the answer.

The Court: It may stand subject to the objection.

Q. With reference to the flood upon the earth by God as told in the Bible?

A. Science has proven that to be a scientific impossibility.

Mr. Franklin: I move to strike.

The Court: The answer will be stricken. The question was whether they believed it.

The Witness (Continuing): We disbelieve it. We teach that it is not true. We believe and teach that the miracles performed by Jesus are impossibilities, that a miracle is a violation of natural law. We believe that resurrection after death is a physical impossibility. We believe there are no such things as prophets. With reference to the Bible being the word of God, inasmuch as we can find no evidence that God ever wrote it and we have no authority for accepting that writ, we deny it being God. The Free Thinkers teach that. We deny the existence of God.

[fol. 219] Cross-examination.

By Mr. Peterson:

We say that God is from the imagination. I believe that religion is a chronic disease of the imagination, contracted in childhood. I most emphatically hold to the thought that religion is born of fear, ignorance and superstition. I also hold that from the first day that the first crook realized he could hoodwink a few credulous beings into believing he had some personal tie-up with an unknown deity religion and its unscrupulous preachers have fought to perpetuate

the racket that permitted them to prey upon the innocence and credulity of the masses. I believe the Bible contains so much that is bad, so little that is good and little or nothing that is true, that it seems impossible that anyone who has read and studied it would recommend it as fit for our youth to read, much less use as a moral inspiration.

I did not say that all preachers or ministers of the Gospel are unscrupulous. There are exceptions to all rules. We do not have preachers in the Free Thinkers, or ministers, but they are welcome. My office is the headquarters of the Rochester Society of Free Thinkers. We hold our meetings down town. I am the head of it, and have been since 1938. I say that the Old and the New Testaments show and prove that the Bible is not a fit book to be read or believed in by the youth in our public schools. I absolutely refuse to believe there is a God until he makes his personal appearance to me and until I can hear whatever is God talk to me in my presence..

We take the position that we have no knowledge of such a thing as God. I do not admit the possibility of a God from any evidence now in existence. We do not believe there is a God. I am proud to say I am an atheist. I did not pretend to teach my children any particular philosophy. [fol. 220] I permitted them to go to the various schools and churches. What natural philosophical knowledge they acquired they gained from me and from my home and from other places where they went.

Q. Did you criticize the Bible in the presence of your children?

Mr. Chapman: Objection.
The Court: Sustained.

Q. Did you do anything to influence their decision?

Mr. Chapman: Objection.
The Court: Sustained.

Q. Do you want all others to subscribe to the same philosophy as you do?

Mr. Chapman: Objection.
The Court: Sustained.

Q. Do you object to the reading of the Bible by anyone?

Mr. Chapman: Objection.

The Court: Sustained. I understand he is not a party to this suit, but was put on merely to express what the doctrines of the Free Thinkers were.

Mr. Peterson: It shows his interest. That is what I was questioning him about.

The Court: The objection is sustained.

Mr. Franklin: If they put a witness on the stand to testify about the doctrines and tenets of his belief, then we have a right to inquire if those beliefs, doctrines or tenets is the propagation of his belief among other people or whether it does not include them.

The Court: The objection is still sustained. The Court is taking notice of the entire pamphlet attached to the complaint.

The Witness (Continuing): I have never been in a fox hole and I am not entitled to answer whether the soldier in [fol. 221] the fox hole who is in physical danger at the time, who has any belief in God, predicates that belief solely upon fear and superstition.

Q. You have never felt any spiritual contact in any way, shape or manner?

Mr. Chapman: Objection.

The Court: Sustained.

Q. Have you never in your life felt what is commonly known as the religious spirit?

Mr. Chapman: Objection.

The Court: Sustained, as not within the purview of the direct examination.

Q. You believe what your organization believes don't you?

Mr. Chapman: Objection.

The Court: He may do that and still have some belief of his own.

The Witness (Continuing): I believe the beliefs of my organization. I believe that when persons pray they think they are teasing God.

Q. Do you believe that when the President of the United States makes a proclamation of a day of prayer that that is the equivalent of asking the people to tease God?

Mr. Chapman: Objection. He keeps asking this witness what he believes.

Mr. Peterson: Your organization.

The Witness (Continuing): We believe it is a violation of Constitutional law as far as using the power or duty is concerned. We believe that when the President sets aside a day for prayer that is unconstitutional. When the president proclaims:

"At a time when stars hang in the windows of the nation's homes to honor the absent warriors; when millions of Americans live in temporary homes and in migrant centers while [fol. 222] they work at war jobs, it is important to urge that the religious education of the country's children be fostered and extended.

"It is likely that there are millions of youngsters who need initial and basic religious instruction. They should receive it and learn of the fatherhood of God and the brotherhood of man."

that a statement of that kind is based upon ignorance and superstition and cowardice.

Recross-examination.

By Mr. Franklin:

Q. Do you contend that the Free Thinkers' Society is a religious sect?

Mr. Franklin: Objection.

The Court: Overruled.

A. Webster's Collegiate Dictionary defines religion as loyalty to an ideal.

Q. Is it not true that every dictionary defines religion as the relation between man and a Supreme Being?

Mr. Chapman: Objection.

The Court: He may answer.

The Witness (Continuing): That is a part of the same definition. It is absolutely true that I do not contend that I am a member of any religion, religion being the relationship between man and the Supreme Being. We are not a member of any religion within the definition of religion as the relationship between mankind and a Supreme Being. Neither are atheists.

Q. Is it a tenet or belief of the Free Thinkers Society that persons are entitled to make a free choice between re-

ligion or irreligion, untrammelled by exclusive education in one subject?

Mr. Chapman: Objection.

The Court: He may answer.

A. Not when it is supported by state funds.

[fol. 223] Mr. Franklin: I move to strike the answer.

The Court: Strike it.

The Witness (Continuing): I do so believe. It is a tenet of the Free Thinkers Society that persons should be given an opportunity to learn both about religion and atheism. It is a tenet of the Free Thinkers Society that books by atheists concerning their beliefs should be excluded from the public schools.

Q. Do you believe that the works of Voltaire and Thomas Paine should be excluded from the public schools?

Mr. Chapman: Objection.

The Court: He may answer.

The Witness (Continuing): I do not believe that they should be excluded from study as a text book. It should not be in the library, nor should the Bible. I believe that any book of any philosophy teaching atheism should be excluded from the public school curriculum. I believe as stated in my pamphlet that religion is an insane desire to appease an impossible deity. I believe that all persons who embrace religion are insane to that degree.

Mr. Chapman: Objection.

The Court: He may answer.

The Witness (Continuing): I certainly believe that every minister of the Gospel is insane to that degree. They are following an insane and dishonest occupation. That applies to Rev. Philip Schug whom I know and who sits across the table from me if he taught the doctrines of which you are talking. If he believed in the divinity of Jehovah I would believe that he was insane and dishonest. I feel exactly the same way about beliefs in other Gods than Jehovah. I believe that very minister who believes in any God is insane and dishonest to that degree at least. I met Rev. Schug [fol. 224] yesterday for the first time. From then I had an opportunity to observe him.

Q. You believe those things to be true of him?

Mr. Chapman: Objection.

The Court: That has been asked and answered.

The Witness (Continuing): The statement in my pamphlet, "When religious groups begin to lay aside their own political ambitions and unite to promote harmonious and constructive citizenship, then will they be qualified to build character," is subscribed to by the Free Thinkers Society of which I am a member.

I still believe that myself. If the religious groups represented by some of the witnesses who have appeared here fall within that definition I believe them to be qualified to build character.

I am interested in the result of the litigation here. It is not true that I talked to Mrs. McCollum regarding the institution of this suit. She recently made a trip to Rochester to visit with me. Naturally I spoke to her regarding this suit. The purpose of my visit here at this time is to be present at this trial.

Q. You would personally be dissappointed if she did not prevail in the suit?

Mr. Chapman: Objection.

The Court: Overruled.

The Witness (Continuing): I certainly would.

James Terry McCollum, called as a witness on behalf of relator, having made affirmation in due form in lieu of being sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is James Terry McCollum, 1118 West John, Champaign, Illinois. I am ten years old. I have been attending South Side grade school in Champaign, sixth grade. [fol. 225] Last year I attended Dr. Howard School in Champaign, fifth grade. My teacher there was Mrs. Taylor. Religious education was taught there by Miss Chapin. I did not take the course last year. Another child in my class room did not take it, Elwin Miller. Elwin started the course later. After that I was the only one in Mrs. Taylor's class who did not take religious education.

I think it was held on Thursday in the morning, after spelling or arithmetic, I have forgotten. Miss Chapin taught religious education in the Dr. Howard school last year. When she came to Mrs. Taylor's class room I went out to the music room or over to the library, and once I went out in the hall. During the first part of the year, while Elwin Miller did not take the course, he went with me. The music room and library were on the same floor as my class room. After Elwin Miller joined up in religious education Mrs. Taylor would go with me to the music room or the library dur g the religious education period, every time.

Q. Did she ever stay in the class room where the religious education was being taught?

Mr. Franklin: Objection.

The Court: Sustained.

The Witness: (Continuing.) I mean that after Elwin Miller began taking the course and I was the only one who did not take it, Mrs. Taylor did not go with me to the music room or to the library during that period. She was in the class room listening to the religious education. Once she sent me out in the hall. I did spelling there. I had a desk out there. When I was out there on that occasion the kids that went by teased me. I never left the building during the class in religious education. During that period when I did not have any studying to do I read a book. She never [fol. 226] allowed me to go out to play while they were taking religious education.

Mrs. Taylor spoke to me with reference to taking religious education. Sometimes that was in the class room, sometimes in the library and sometimes in the music room. On these occasions when I was in the class room maybe there were a few children doing school work at the time; in the music room and library Elwin Miller would be the only one present. I also talked with her about it when I was alone with her. In the music room she said the same thing she had said other times: "Why don't you keep the class 100%." She said to me I would get along better if I did take it.

Relator's Exhibit 2 for identification is the card which Miss Roloff, my teacher, passed out the first day of school, this year. She is my teacher now. I don't know if she passed out any more cards to any other children at the same time. I was in the class, at my desk, when she gave

it to me. All the pupils were present. They all got one of these cards. She said to bring the cards back as soon as we could. She said: "Hurry up, return them, get it over with."

(Whereupon Relator's Exhibit 2 was offered and received in evidence without objection.)

Relator's Exhibit 2, being a card, which is in words and figures as follows:

[fol. 227] RELATOR'S EXHIBIT 2

"CHAMPAIGN COUNCIL OF RELIGIOUS EDUCATION

1945-1946

Parent's Request Card

Please permit —— —— in Grade —— at —— School to attend a class in Religious Education one period a week under the Auspices of the Champaign Council of Religious Education.

(Check which)

Date —— ——

( ) Interdenominational
( ) Protestant
( ) Roman Catholic
( ) Jewish

Signed —— ——
(Parent Name)

Parent's Church —— ——
Telephone No. —— —— Address —— ——

A fee of 25 cents a semester is charged each pupil to help cover the cost of material used.

If you wish your child to receive religious instruction, please sign this card and return to the school.

Mae Chapin, Director."

The Witness (Continuing): Mrs. Taylor said about the same general thing in the music room that she said in the library and the class room. She talked a little about my fighting, why I got in fights, and stuff like that. When Mrs. Taylor testified here yesterday that some of the other children complained to her that I kicked them and slapped them and spit in their faces those complaints were true, although not exactly the whole truth. They beat up on me

and I did not have anything else to do. I was younger than they.

Q. Did they beat up on you first?

Mr. Peterson: Objection.

The Court Sustained. Do not lead the witness.

The Witness (Continuing): I do not know whether they beat me before I slapped, kicked and spit in their faces. [fol. 228] I guess they did—I don't know—both did—yes. I did not do as much as they said. Mrs. Taylor sometimes said she might do something about it. I left. She said that is why I got in fights. I mean the reason why I did get in fights and stuff like that. She said I should learn to fight my own battles. She was talking to me when she spoke about getting along with the other children. I heard them complain to her about it. I have forgotten what she told them when they complained to her. Sometimes she did say something to me when they complained. She said I should not do that because I would get in fights, things like that. I heard her speak to the other children when I complained about them, but I have forgotten what her words were.

Q. Did she ever say anything to you in regard to taking religious education when these complaints were made one way or another?

Mr. Peterson: Objection as leading and suggestive.

The Court: Sustained.

The Witness (Continuing): I was interested in this class in religious education. I wanted to take it. My mother never consented. She did not sign a slip so I could take it last year. She signed one for the year before. I took religious education at the end of the year before when I was in fourth grade.

Q. What was there about this religious education that attracted your attention?

Mr. Franklin: Objection. What attracted him would not be relevant.

The Court: Objection overruled.

The Witness (Continuing): I did not like to be out in the hall and in the music room with the door shut, and I wanted to hear Miss Chapin's opinion. I do not recall right

now anything else that interested me in religious education. [fol. 229] I knew that other children were taking the course.

When they sent me out of the room I usually did arithmetic and sometimes spelling. I do not like arithmetic and spelling very well. I like religious education a lot better. I recall that Miss Chapin brought in school a lot of different papers and things, and sometimes the kids passed one on my desk. I was also interested in the little ornaments she brought from China and different places.

Cross-examination.

By Mr. Peterson:

I have lived at this address in Champaign since I was a little boy. I took my first grade work in South Side School. I did not have any difficulties when I was in first grade. I had about as many difficulties in the second grade as I did in the first. During the time I was in second grade the teachers did not talk to me about my fighting. In the third grade I did not get into fights. I got in a few fights in the fourth grade. That was all through the year. The last half of the fourth year I took the course in religious education. My teacher was Miss Stocks in the religious education class that I took the last half of the fourth year. After I finished the fourth grade I transferred to Dr. Howard School. The other children in my neighborhood went to the South Side school except one girl, who went to Howard.

When I got to the Dr. Howard School I had some difficulties with the other pupils. The teacher talked to me about that, usually in my room. They did not call me into another room to talk to me about it very many times. At Dr. Howard School they did not send children to the principal when they talked to them about doing those things. It was al- [fol. 230] ways the teacher that talked to the pupils. I could not tell you how many times she talked to me about fighting and spitting in their faces and things like that, quite a few, though. In the South Side School spelling did not come hard for me. I studied a lot harder on spelling when I was in the fourth grade than when I was in the fifth grade. I did not do very good work in the fifth grade. The teacher spoke to me about it a little. She wanted me to do more studying in spelling and arithmetic. Mrs. Taylor was my fifth grade teacher.

Q. Did you like her as a teacher?

Mr. Chapman: I object.
The Court: Sustained.

The Witness (Continuing): When I got to that school they passed out cards the first of the year. I knew what they meant. I knew I could take the course in religious education if my parents would permit me to take it. One of the reasons I liked to take the religious education course was because I was anxious to know the way they taught them.

When I was at the South Side School I saw a good many children going to Sunday School. I go to Mr. Schug's Sunday School when it is open. I started about the second semester last year. When I was in fourth grade of school Mr. Schug had no Sunday School. At that time I did not go to Sunday School. I did not very much want to go, in a way I did and in a way I didn't. I kind of want to know a little more about religion. I do not know much about it. Now I know a lot more than I did. As I got older I learned more and want to know still more. After I took the course when I was in the fourth grade I wanted to learn still more. I enjoyed the work over there. I told my mother and father that I enjoyed it. I don't know if I told them [fol. 231] that I wanted to know more about religion. I think I did.

When I was in Mrs. Taylor's class there was only one time that she had me sit in the hallway. Some of the boys that passed back and forth going to the bathroom I knew. I cannot recall their names. One boy that I think I remember was in third grade.

Mrs. Taylor remarked about making the class 100% when she passed out the cards. I know she talked about 100% when she passed out those cards. I know she talked about 100% in connection with the stamp drive, but she said it about the religious education too. I don't know how many times she said that in my presence or to me when I was in the library. Perhaps three or four times. That included the music room. Elwin Miller is about the only one I knew who was present at any time when she said that.

When I was in fourth grade I signed up as a cub scout. I am not a boy scout. I do not think I want to be one. I think it would be too hard work and I think I could get better to do. I know that a boy scout and a cub scout has

to take an oath. I do not care if I have to take the oath or not, it is O. K. with me.

Q. When you came into this court room here did anyone ever ask you not to take the oath or did you ask not to take the oath?

Mr. Chapman: I object, he took the oath.

The Court: Sustained.

(Whereupon the following proceedings were had at the bench in the presence of the Court, away from the witness.)

Mr. Franklin: Mr. Cromwell affirmed before the court without oath. I call the court's attention to the fact that there was nothing in the record to show that he had asked [fol. 232] to be sworn in that way. It is our position that under the law unless the witness asks to be excused, the accepted procedure is to swear on oath by the ever living God; it is only upon conscientious scruples that a witness may avoid taking the oath. * * * We are entitled in this case to have the conscience of the witness pledged to veracity, and I would like to ask the privilege to ascertain by this witness whether his veracity is being guaranteed by any conscientious scruples.

HALLIE B. SNYDER, called as a witness by the court, out of the presence of the witness, having been duly sworn, testified as follows:

Direct examination.

By the Court:

My name is Hallie B. Snyder. I am deputy Circuit Court clerk of Champaign County, Illinois. I have been administering oaths to all of the witnesses in the case so far. Prior to the convening of court yesterday, Mrs. McCollum came to me and asked whether we had another oath that could be administered to her, to her father and to her son. I replied that the only oath was the one we give to witnesses, and that if she did not want to be sworn by that oath we could give the affirmation. She requested that she, her father and son be given the affirmation in place of the regular oath to the witness.

Cross-examination.

By Mr. Franklin:

Mr. Cromwell did not make any such request of me, nor did the witness on the stand, James Terry McCollum. Yesterday noon Mr. Cromwell asked me whether or not I would give him the affirmation in preference to the oath.

[fol. 233] ARTHUR G. CROMWELL, heretofore called as a witness on behalf of relator, having duly affirmed, resumed the stand and testified further as follows:

I mentioned to Mrs. Snyder that I would prefer when giving my testimony to do so by affirmation rather than by the oath administered to the other witnesses. I did it to avoid embarrassment to myself or the court; I have tried to avoid sensationalism.

Cro s-examination.

By Mr. Franklin:

Were I to take an oath and swear to an ever-living God I would be telling a lie because I would not believe in it.

Mr. Franklin: I move to strike all of the evidence in the record as to the witness on the stand.

The Court: This is a boy of tender years. I doubt very much that the boy understands what the nature of an oath is. His testimony will be received for what it is worth in the mind of the court. The proper procedure in a case of one of tender years is to ask that he understands that he is required to tell the truth, and if so, why. That was not asked by either side.

(Whereupon the examination of the said James Terry McCollum was resumed in open court:)

When I stood before Mrs. Snyder I did not hold up my hand. I said I would rather not have it with the oath. I affirmed that I would tell the truth. That means to tell the thing that is true, what is right. I know that I am to tell the truth to the court. If I did not tell the truth, as far as I am concerned, I would be thrown in the jug.

[fol. 234] By "jug" I mean jail.

I attended the class of the University of Illinois known as a demonstration school during the summer. We took social studies. At that school they said the Lord's Prayer. I did not know the prayer when I went there. As soon as I got to know the prayer I joined in with the other pupils. I have forgotten all of it now. They all sang hymns as well as other songs. The only one I know was Glory, Glory, Hallelujah. I tried a little bit to learn those songs, not my very best. I did my very best in music, my favorite subject. I don't think I did my very best in spelling nor arithmetic.

At the summer school I read a Bible story aloud in class. At other times other children read them to the class. When a pupil got up during this summer school to read a Bible story the rest of us would sit and listen. When it came our turn we would choose our own story. I chose something about Adam and Eve.

Redirect examination.

By Mr. Chapman:

When I was attending the demonstration school my mother made no question to me about reading the Bible or participating or about singing religious hymns with other people. With reference to Mrs. Taylor's remarks about 100% in her class, my estimate was that she made it three or four times.

When I was sitting out in the hall, when Mrs. Taylor sent me out, I looked right at the children who passed, a few of them. Before I went to fourth grade I did not take any par- [fol. 235] ticular interest in Sunday schools, churches or religion. I took no religious education before fourth grade. I do not remember my mother giving me permission to study Bible at the university. She does not care if I do or not. I remember a teacher, Mrs. Janke. I studied Bible with her. My mother did not care as far as that was concerned. She probably said yes, although I am not sure.

The Court: What she probably did will be stricken.

The Witness (Continuing): My mother knew I was reading the Bible there.

The reason I said that some ways I wanted to go to Sunday school and some ways I did not is that I wanted to learn more about religion. I did not want to go because I think I would feel kind of funny there, being an atheist, not believing in God.

With reference to Mrs. Taylor talking to me about fights in the first, second, third and fourth grades, and the teachers I had before I had Mrs. Taylor, they did not talk to me about fights any more than to the other children.

Recross-examination.

By Mr. Peterson:

I have not talked over with anyone the reasons I did not want to go to Sunday school or take religious education classes. If I did it was with my mother, but not about the Sunday school, only the religious education classes. When I was a little fellow in fourth grade I called myself an atheist but I didn't know its meaning. I knew why other children went to Sunday school, because their parents believed in God and stuff like that. When I called myself sort of an atheist I meant I said to myself that I did not believe in God. I said to myself I did not believe in God before I went to kindergarten. The only one who talked [fol. 236] to me about not believing in God was my granddaddy, who said it was just bunk. That was when I was in kindergarten. There when we drank milk we said a prayer, and he objected to it. I finally won his opinion. I kept keeping going on like that, and I still had the same idea in my mind. I finally won out and he finally let me say the prayer in kindergarten. In the prayer I think we thanked God for the stuff we ate. It was a kind of a little prayer. I was about five years old when I went to kindergarten.

When I was going to the Dr. Howard school, fifth grade, I saw children in my neighborhood going to Sunday school. During that year I went to Mr. Schug's church. We have no church in our neighborhood within a mile. The book we used there deals with "primitive beliefs." When we are saying the prayer we are not speaking to God or anything. I do not know who is supposed to be speaking. As far as I am concerned, it is just a bunch of words.

Recross-examination.

By Mr. Franklin:

I was a cub scout a couple of years. I like it. I enjoy cub scouting. I won some medals. I do not care about the scout oath. If they did not have the oath I still would not want to go on with it. The oath does not bother me, but

I do not like all the boy scouting ideas. I do not like to get more work to do. The boy scout oath contains a statement of belief in God.

Mr. Chapman: Objection.

The Court: Sustained. It has been gone over.

The Witness (Continuing): I have no objection to taking such an oath, in this court room or anywhere. It would be O. K. with me if I had that kind of oath, but I would rather [fol. 237] have the one I took. I made no request to be excused from taking an oath to God in this case, my mom did. I still want to learn more about what others believe with reference to God. As far as I am concerned there is no evidence; I mean I do not know about that. My grandfather has never found any evidence of God nor have I.

Q. What have you looked for in the way of evidence of God?

Mr. Chapman: Objection.

The Court: Sustained.

Q. Have you made any effort to find out whether or not there was a God?

Mr. Chapman: Objection.

The Court: Sustained.

Q. Aren't you a little in doubt as to whether there is or is not a God?

Mr. Chapman: Objection.

The Court: Sustained.

The Witness (Continuing): I think I spoke with one cub scout about my religious beliefs. That was when I heard about the boy scout oath. I was in fourth grade, maybe fifth. I make no secret among my playmates and acquaintances that I am an atheist. From some of the kids in school I tried to keep it secret, but I suppose everyone in the City of Champaign knows it now.

Q. That is because of the pendency of this suit?

A. Yes.

Mr. Chapman: Objection.

The Court: Sustained.

The Witness (Continuing): I have felt no sense of shame about being an atheist. I sort of enjoyed being different from other people with reference to the matter

of God. I am rather proud of the position in which I am [fol. 238] put by not believing in a God. In a way it is sort of fun to be an atheist; in a way it is not.

Redirect examination.

By Mr. Chapman:

The reason I wanted to keep that secret from some of the children in school was because I would get teased, because the majority believed in God and the kids usually tried to tease me. My mother was the one who suggested my going to Rev. Schug's Sunday school. That is the Unitarian church. I have talked with my mother about this case. My mother was home yesterday evening.

Q. What time did you talk with your mother about the case yesterday after court closed?

Mr. Franklin: Objection. He is their witness and they cannot treat him as a hostile witness.

The Court: Overruled.

The Witness (Continuing): I do not know exactly what time it was. My mother told me to say the truth in court.

Q. Did she tell you what you should tell?

Mr. Franklin: Objection.

The Court: He may answer.

A. No.

Q. Did you use your own mind for that?

Mr. Franklin: Objection.

The Court: Sustained.

Q. Did anybody else tell you anything you should tell beside the truth?

Mr. Franklin: Objection.

The Court: Sustained.

The Witness (Continuing): The children teased me about being an atheist; it would be when the teacher was not around. They always did that whenever she was not [fol. 239] around. I know the names of the boys in the fifth grade class with me last year. All of them that knew I was an atheist teased me. I can't remember what children. They found out I was an atheist. Some I had

told and some found out. I told some in the fifth grade the beginning of the year and the rest of them found out because of the lawsuit. When I was in the fourth grade at South Side a few of the ones that knew I was an atheist teased me, but they forgot, they did not tease me all through the year, they kind of forgot about it. When they teased me it was soon after I told them I was an atheist. Billy Bradley is O. K. I don't know if he does or not know I am an atheist. He never kidded me. Kids around my neighborhood are good pals of mine. They kid me about being an atheist. They are little kids who do not pay any attention to atheists. An atheist is one who does not believe in God or the Bible or anything that has to do with religion.

Redirect examination.

By Mr. Chapman:

Before this case was started I talked with the boys in the neighborhood about being an atheist. I didn't talk very much with the students in school about it before this case was started. When they teased me I didn't listen. The students asked me why I was not taking religious educatica. I told them I did not want to at the time. I probably told them more, I am not sure.

Recross-examination.

By Mr. Franklin:

One of the boys who asked me why I did not take religious education I think was Jimmy Dodds. He was in my class but he is not a friend of mine. Sometimes I [fol. 240] played with him in football games. It is not a fact that he himself did not take religious education at South Side in my grade. He never teased or bothered me about it but he did ask.

Mr. Franklin: I move to strike all of the testimony of James Terry McCollum because it appears from his testimony that he did not have conscientious scruples against the taking of the oath provided by law.

Mr. Peterson: We join in the motion.

The Court: The motions are denied.

REV. ERWIN A. GADE, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Rev. Erwin A. Gade, Argo, Illinois. I am minister of the First Congregationalist Church in Argo, and have been for four years. I am familiar with the doctrines and teachings of that church and am acquainted with the system of religious education conducted on released time from school.

In our community a church started it and is using the community building. The children who have permission from the parents are excused from the public school to attend religious instruction once a week.

Mr. Franklin: Objection, and move to strike the answer.
The Court: Objection sustained, and answer stricken.

Q. Have you done anything with reference to released time from school for religious education?

Mr. Franklin: Objection.
The Court: Sustained. This has nothing to do with [fol. 241] School District No. 71 in Champaign County, or within school buildings within the City of Champaign.
The Witness (Continuing): I have known about released time for religious education in Champaign since it became an issue in Springfield, in the legislature. I went down there and I know a minister in Champaign, and I know that there have been several religious groups that were not invited to participate in the program.
Mr. Franklin: Objection.
The Court: I will strike the part of the answer about any groups not asked to participate.

Q. What were you doing in Springfield?

Mr. Franklin: Objection.
The Court: Overruled.

A. I was testifying against the McCook Bill.
Q. Were you opposed to released time?

Mr. Franklin: Objection.
The Court: Sustained.

Q. Are you opposed to released time for religious education?

Mr. Franklin: Objection.

The Court: We will hear it subject to the objection.

A. Yes, I am opposed. I am not an atheist.

Mr. Franklin: We are objecting to the relevancy of this testimony and its materiality, and this witness' testimony with reference to his attitude, whether in favor or against it. His experience would be hearsay as to religious education in this district.

The Court: Is it agreeable that the objection may be considered as being made to the entire line of the examination?

[fol. 242] Rev. Carl Baehr, called as a witness on behalf of relator, having been first duly sworn, testified as follows:

Direct-examination.

By Mr. Chapman:

My name is Carl Baehr.. I live in Chicago, Illinois. I am a minister, affiliated with the Congregationalist Church of Chicago, and have been for five years minister of the United Congregational Church of Chicago. I am familiar with its doctrines and teachings. I am familiar with the system of religious education called released time for religious education.

Mr. Peterson: The same general objection.

The Court: The same ruling as was made in regard to the testimony of Rev. Gade.

The Witness (Continuing): My understanding of released time is the general system of releasing the school children from one hour of school for religious instruction either in the church building or within the school property. It could be almost any period of time that seems agreeable to the school authorities.

Q. Are you in favor of that kind of a system?

Mr. Peterson: Objection.

A. I am opposed to that kind of a system.

Mr. Peterson: I move to strike the answer.
The Court: It may stand subject to the objection.

Q. What have you done with reference to your opposition to such system?

A. We have had a real discussion before the board of deacons and the church organization felt that it was too much diversified instruction, and we are opposed to it.

Mr. Peterson: Objection, and move to strike.

[fol. 243] Q. Do other people in your church work with you against this system?

Mr. Franklin: The same objection.

A. They have.

The Court: I will let it stand.
The Witness (Continuing): I am not an atheist, nor are the people who work with me.

Cross-examination.

By Mr. Peterson:

My religion is the Congregational Christian. I graduated in 1942 from the Chicago Theological Seminary. I am not certain that my church organization as a body has taken any definite action on the question of released time. There has been no general council meeting since this issue has been brought up. Certain individuals have been in the movement for and certain individuals against. As a denomination they have not supported released time instruction.

I have given this subject considerable study. I have read the various articles written on the subject by Prof. Allerton and a number of others who have not only written but have spoken on the subject. Prof. Allerton is connected with the Chicago Theological Seminary, of which I am a graduate. Rev. Erwin Gade attended the same school.

Cross-examination.

By Mr. Franklin:

Our national church organization has a curriculum committee. I do not think it operates alone for the purpose of determining the curriculum to be used in these classes but

it is for the general curriculum in the Sunday school and with all kinds of preachers. The curriculum committee may as a committee have voted to continue to support weekday [fol. 244] religious instruction or education throughout the nation and throughout my denomination, but they have never brought it within the council and to the congregation of the Christian Denomination which operates through its council, and the board can be challenged at any time under such conditions.

Q. Has it ever been challenged with reference to this?

A. I rather presume it will be challenged at the next council.

I represent myself as an interested individual. I am not a taxpayer in School District No. 71 and I am not a resident thereof. My only interest in your welfare is the interest which I have in the welfare of all human beings.

Redirect examination.

By Mr. Chapman:

I am a citizen of the State of Illinois and interested in the citizens of Illinois and in their welfare.

Prof. Allerton is one of the professors of religious education in the Chicago Theological Seminary. I have not conferred with Prof. Allerton with reference to the study of this subject.

Q. With reference to your own church, do you find that all the people in your church are in support of the program of Dr. Shaver?

Mr. Franklin: Objection.
The Court: Sustained.

Q. Do you know of any plans being made within the church by people who are not atheists with reference to obstructing the movement for released time for religious education in the future?

Mr. Peterson: Objection.
The Court: Sustained.

Recross-examination.

By Mr. Peterson:

[fol. 245] I do not think I graduated at the same time as Rev. Gadé. I think we were there together. We have both been in the ministry about the same length of time. We attended a few classes together.

Redirect examination.

By Mr. Chapman:

Q. Are you familiar with other ministers from the same school who oppose the system?

A. I am.

Mr. Peterson: Objection.

The Court: Sustained.

Mr. Chapman: I want to make it clear that we are not opposing religion, that the purpose of this suit is not to oppose religion, that it is not an issue at this time, nor do we oppose it because some of our people are atheists.

Mr. Franklin: I object to the speech and move to strike it from the record.

The Court: He has the right to state the purpose for which he offers testimony. It may stand.

Vashti McCollum, the relator, called as a witness in her own behalf, having made affirmation in due form in lieu of being sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Vashti McCollum, 1118 West John Street, Champaign, Illinois. I am a housewife. Last year I taught dancing. I am a student at the University of Illinois, in the pre-medical course. I have a degree from the University of Illinois. I majored in political science and studied some law. I taught dancing in the physical education department [fol. 246] at the Illinois Union Building beginning in October, 1944, and ending in the latter part of May, 1945. It was a part time assignment. The next semester I took

more college work. I was on an hourly basis instead of assignment.

Q. Have you ever been invited to go back and teach any more since this case was filed?

Mr. Franklin: Objection.

The Court: Sustained.

The Witness (Continuing): I am married and have three boys, James Terry, 10; Donald, nearly 8; and Ariel, 5. The two older boys attend the South Side School. Ariel is in first grade in a private school. Last year Terry attended Dr. Howard School in Champaign, fifth grade. He brought me an application card with reference to religious education in the Dr. Howard School last year. I did not return it signed. I filled it out and sent it back. I never signed a permit for Terry to take religious education in the Dr. Howard School while he was in fifth grade. Mrs. Taylor was his teacher there. I became acquainted with her. I had a conversation with her about Terry in regard to the religious education. As I recall, the first conversation with her was in my car, around November or December. Miss Gleason, another Dr. Howard teacher, was in the car.

I asked her how Terry was getting along in his school work and with the other children. She said she believed his work was improving, he had started behind and had to work to catch up, and she thought he was making some improvement. As far as the children were concerned, he was not doing too well. I asked her if she had any ideas on how to improve the situation. She said the children did not take it from Terry, whereas they might have to accept it [fol. 247] from one another. In answer to my question about suggestions to better Terry's association with his fellow students, she said that perhaps if he would join the religious education class it would help; it would be participating in things in which they participated, and she suggested changing his cub scout affiliation from the South Side to the Dr. Howard School; that it would tend to improve his association to be with those other children in participating with social things, in as many different fields of activity as possible with the other children in the school and in his particular class especially. I told her I was anxious to help him in every way possible and had not considered allowing him to take religious education. It was not that I feared that anything taught in those classes would be harmful to

Terry, but that I was bitterly opposed to the whole system as being undemocratic. To my way of thinking it defeated the constitutional principle of the separation of church and state. I thought I was being a hypocrite if I allowed him to join in when I opposed it bitterly, merely for the purpose of having him conform to the rest of the children. I did not think the teaching would harm him or make much difference either way. My concern was that it was a means for the breaking down of the separation of church and state. I realized in taking this stand against religious education classes participation it was doing Terry harm, making it hard for him. I felt that in the long run it was the only action that I myself could take.

I told Mrs. Taylor that I could not subscribe to the doctrines that were taught in the religious education classes. I did not take issue with the classes for that purpose, saying that anything Terry would learn in those classes would [fol. 248] be perfectly all right with me. After all, I would just as soon let it be presented with all the conflicting views. I did not approve anything of the miraculous or superstitious nature; it was not in accord with my views or with reason, and I could not bring myself to consider it. I had some conversation in which she told me that Terry wanted to take the course in religious education, and she told me of one instance where the door had been left ajar and when she stepped out of the room Terry's ear was glued to the door to hear what was going on in the class room.

I had another conversation with her probably in March, 1945, in the hallway in the Dr. Howard school, just outside of her room. Only Mrs. Taylor and I were present. I asked her if Terry had to wait in the hall that day and she said he did during the religious education class; that he was provided with a desk and there was sufficient light, and he had books and material to work with. She said that she was not aware that there had been any feelings on Terry's part. I told her he had come home crying, very much upset, and had said that he sat in the hallway and that children going through the hallway and seeing him there had assumed he was there for punishment, since occasionally if a child does not conform he is seated in the hallway, and that was the assumption upon which the children had ridiculed or teased him. He was very much upset. She said she was sorry, that ordinarily Terry had been allowed to sit in the music room.

I told her that Terry was never satisfied with that arrangement because it adjoins the teachers' wash room and the door into the hallway was usually closed and he did not like to sit in there by himself. She asked me if I thought [fol. 249] there was a possibility he was saying that as an argument to persuade me to allow him to take religious education. I admitted the possibility, but told her I had plenty of evidence at home that he did not like to be in a room by himself. I told her that no boy of mine within the regular school period was going to be made to sit in the hall, to be subjected to ridicule, condemnation or questioning, or in a music room where any teacher would know why he was there or would question why he was there because he was not taking a course in religious education. I told her that to my way of thinking it was definitely beyond the scope of a public school, that the public school was a democratic organization, that I did not want anything brought into the public schools that would have anything but a democratic effect on the children, and for that reason I was keeping my son out of it, and that I did not expect that he was going to be set apart because of it. I felt it should not have been in the schools in the first place. I told her I was going to see Mr. Mellon about it that afternoon. She said she thought that is what I should do. I was not blaming Mrs. Taylor for Terry's sitting in the hall and being ridiculed. It was just the result of the whole situation of presenting religious education in the public schools and that I was going to see Mr. Mellon about it.

I went to see Mr. Mellon, the superintendent of schools in Champaign, in his office. No one else was present. I related to him the conversation between Mrs. Taylor and myself, and told how Terry had come home from school crying; that I would not allow him to take religious education in the schools; that there was no special place for the children who did not take it and Terry had to sit in the music room by himself and was held up to ridicule and teasing because he did not take religious education. I [fol. 250] told him that as far as religion was concerned everyone taught their children about religion and could instruct them as they saw fit; that I did not see any reason why it should be brought into the public schools when there were churches where the religious education should be conducted. I expressed my belief that religious education such as this program was unconstitutional and con-

trary to the basic principle of separation of church and state. Mr. Mellon made no comment. I told him that I wanted my children's minds to be unfettered in any regard, open to scientific proof, that when they were old enough to be discerning themselves they could judge; that I did not want them indoctrinated when they were young with any creed, superstition or any belief in the miraculous.

I admitted that the teaching itself did not hurt Terry as long as at home we presented an open viewpoint for him, but I was going to keep him out of the class because I would not be one of those people that swell the ranks of the parents and sign up for religious education in the school. I told him that friends of ours personally feel that they have been ridiculed; it has come to where the child of parents who have not signed the card has not been approved. With the system of religious education in the public schools those children have come home and teased them and they wanted to take it, and then the parents have consented. I told him I was not going to have my child included in that count; that would be hypocrisy on my part, being bitterly opposed to letting myself or my child being taken into that count.

Mr. Mellon told me that he was neutral; that it was a system in operation at the time he took over, he had no [fol. 251] particular connection with it or responsibility in regard to it; that he had no protests regarding religious education in the schools; that there was no reason up to this point for him to have taken any notice of it. . . .

We discussed the merits of religious education in general and in the schools in particular, and he asked me if I was familiar with a book, I think by Thorndyke, in which there is some sort of a co-relation between religious education, good citizenship and morality and its influence on the community. He mentioned a chapter in the book on the Nature of the State, and he said there was very little if any co-relation between religious education, religious instruction, and good citizenship. I told Mr. Mellon that I thought it was an unfortunate thing in the public schools because it called attention to the differences in creeds, races, beliefs, ideas of children and their parents right there in the public school class room, the main democratic organization in this country, and right there those differences were brought out and emphasized before the children, the differences of religion in which there is an emotional quality. A very im-

portant pre[illegible]e is that the children are going to hear it at home and they have the feeling right there that some are going to become protestants, some Catholics, some Jewish, some atheists. Take a Jewish girl, for instance. She could be in that class room and associate with her fellow students and not even be questioned, and without the children ever knowing she was Jewish, or having any feeling whatsoever; but as soon as they let the children participate or perceive there is a difference then all at once she is out. That was one of the great hardships that resulted from religion being taught in the public schools; and the further good [fol. 252] reason for having that principle of the separation of the church and state.

I told him I did not believe it belonged in the public schools; that I was not going to complain any more there but that I was going right on and up, and I asked if he had any suggestion as to where I might begin, and he said I might prepare a letter and submit it to the school board. He told me that there had been wide-spread interest in the subject of released time for religious education in connection with the schools; that the Champaign plan had been satisfactory and they had numerous inquires from other communities regarding the set-up in Champaign; that as a result a letter was being prepared to be sent out to these people who requested information. He had not taken a count of whether they came from ministers, school teachers or parents but he said very often they came from clergymen.

I had another conversation with either Mr. Mellon or Miss Busey in the superintendent's office. She is his secretary or receptionist. In May I had a conversation with Mr. Mellon. Rev. Schug and Mr. Chapman were also present.

Mr. Franklin: I object to any further conversation. It is admitted that she made other objections and a demand on the superintendent.

The Court: We will hear the evidence subject to the objection.

The Witness (Continuing): Mr. Chapman asked Mr. Mellon how many teachers there were, what faiths they represented, and if any teacher of any belief could come and teach under the same conditions. Mr. Mellon said as far as he knew they could. Mr. Chapman asked if Jehovah's Witness could send a teacher into the public schools to instruct the children, and Mr. Mellon said so far as he

[fol. 253] knew they could. Mr. Mellon said he was not familiar with the teachings of Jehovah's Witnesses. Mr. Chapman asked if he knew they taught that it is wrong to salute the flag because they regard the flag as an image and they are taught not to bow down to an image but only to God, and therefore they forbid saluting the flag. Mr. Mellon said that he would not let Jehovah's Witnesses have a teacher in the public schools if the American Legion opposed their teaching because of that or any of their other beliefs.

Mr. Franklin: I move to strike this conversation.

The Court: It may stand subject to the objection.

The Witness (Continuing): I asked Mr. Mellon for a copy of the form letter which they were sending out in answer to the inquiries from other localities but was told it had just been made up and was sent to Rev. McDonald for approval before it was printed up to be sent out. I did not see it then and did not see it at this time.

Mr. Mellon offered to get the file of correspondence and material accumulated since the beginning of the religious education program. He brought it out and showed us some letters, very briefly.

I do not believe there was anything said with reference to sending material to Rev. McDonald except this particular letter.

Mr. Mellon stated that cards were handed out at the beginning of each semester to the children in the classes where religious education was included in the work, that the cards were collected and Miss Chapin had them, and she compiled the figures on attendance; that those records were sent to the superintendent of schools. She said sometimes the cards were mimeographed or printed in the same office; I don't know if she said in the school or by the school machine.

[fol. 254] On one occasion I stopped in the office for the list of members of the school board, and received it.

About the time of the last conversation Mr. Chapman, Mr. Schug and myself called on Mrs. Kelly and on Mrs. Huxtable. She is secretary of the school board. We saw her at her home.

Mr. Franklin: I object to conversations between individual members of the board who as such have no authority.

The Court: Ojection sustained.

Mr. Chapman: I offer to show that she called upon Mrs. Kelly, as a member of the school board and its secretary, and that Mrs. Kelly informed her that she did not favor any Mormon form of teaching in the schools, especially teaching polygamy.

Mr. Franklin: I object.

The Court: Sustained.

The Witness (Continuing): I do not recall right now any other conversations with any other teacher, employee or member of the school board with reference to religious education in the public schools of Champaign.

Q. Did Mrs. Taylor ever say anything to you about children complaining that Terry had kicked and slapped them and spit in their faces?

Mr. Franklin: Objection.

The Court: She may answer.

A. Mrs. Taylor told me that Terry was not being adjusted and he was not accepted too well in the class room.

Mr. Franklin: Objection. This conversation has been gone over step by step. Mrs. Taylor was his witness, and he cannot cross-examine as to whether to impeach Mrs. Taylor.

[fol. 255] The Court: The objection is sustained. The answer will be stricken.

Q. When Mrs. Taylor testified as to the children complaining that Terry had kicked and slapped them and spit in their faces, had the matter ever come to your attention before?

Mr. Franklin: Same objection.

The Court: Sustained. You are not permitted to ask an impeaching question.

The Witness (Continuing): I do not attend any church. I have never been a member of any church. Occasionally I attended Sunday school when I was a very small child. I was baptized in the Lutheran church and went to the Lutheran Sunday school when I was about 4 or 5 years old. Then I went to the Presbyterian Sunday school with my grandfather. He was a Presbyterian, and would stay for church and I would go to Sunday school. That was when I was between 6 and 8. I went to the Episcopalian Sunday school when I was about 10.

My children go to the Unitarian Sunday school. Terry occasionally goes to the Unitarian Church. He attended perhaps two months during last summer and spring. I have not made any study of religion. I have not taken any course in any theological seminary nor in any colleges or universities. I have never been particularly interested in religion.

Q. Have you ever joined any organization in opposition to religion?

Mr. Franklin: Objection. It is not direct examination.
The Court: She may answer.

A. I have not.

Q. Have you ever engaged in any activity in opposition to religion in the church?

[fol. 256] Mr. Franklin: Objection.
The Court: Sustained.

Q. Have you ever engaged in any activity in opposition to teaching religion in the homes of the people?

Mr. Franklin: Objection.
The Court: Sustained.

Q. Do you accept Miss Chapin's statement that Adam and Eve were the first man and woman as a true teaching?

Mr. Franklin: Objection.
The Court: She may answer.

Mr. Franklin: I object for the reason that there is no foundation laid here to show that the relator is a member of any recognized sect, society, organization, cult, creed or belief, that she embraces the belief of any such organization, doctrine or belief. I do not believe that there could be any question of relevancy unless in some way it is to be contended that her form of religion is interfered with. She cannot have a religion all by herself alone.

The Court: The evidence will be received subject to the objection.

A. I do not.

Q. Do you desire that doctrine or belief taught to your child while he is at the age of 9 or 10?

Mr. Franklin: Objection on the ground that the parents' desires with reference to the matter are not the con-

trolling factor with reference to what the child should himself be permitted to learn.

Mr. Peterson: Otherwise there would be no choice of form of religion for the child.

The Court: Objection overruled.

A. I object to that doctrine or belief being taught to Terry as a creed or dogma. As a story he is permitted to read anything.

[fol. 257] Mr. Franklin: We object to all this line of testimony.

The Court: It will be so understood.

The Witness (Continuing): As to Miss Chapin's testimony that Jesus was a man whose father was God and his mother a woman named Mary, I do not want Terry so instructed if it implies that it is something that should be taken upon faith. He may read it and he may reason it out in his mind. I do not want him taught that kind of a story as a true story.

Q. Miss Chapin testified that she teaches in her course in religious education in the public schools that human bodies will be resurrected after death. Do you want that taught to your child at the age of 10 years as a true thing.

Mr. Franklin: Objection.

The Court: Sustained. The evidence may go in subject to the objection. I do not think that this fairly reflects Miss Chapin's testimony about the matter.

(After the reporter read Miss Chapin's testimony the court changed its ruling and permitted the witness to answer the question.)

Mr. Franklin: I object to that question because it erroneously assumes that Miss Chapin's teaching was that matter of the resurrection as a true story or thing. She only said that she taught it by reading it from the Bible without any statement as to whether or not it was true or to be believed.

The Court: She may answer subject to the objection.

The Witness (Continuing): I do not want my children to be taught that as a true story. I do not want my children taught that a certain prophet by the name of Elijah went [fol. 258] up to Heaven in a chariot of fire from the earth. I myself do not accept as in accord with reason the beliefs

with reference to Jesus and Adam and Eve and the resurrection. So far as the chariot and the resurrection, that is not reasonable to me on the face of it. The story of Jesus having God for a father and a woman for a mother is not reasonable to me. The story of Adam and Eve being the first man and woman does not sound reasonable in line with my education.

I have no objection to my boy reading the Bible. As far as I know he did not read the Bible through, but he certainly had it from reading parts of it whenever he wanted to read. I gave Mrs. Janke permission to teach him the Bible in February, 1945.

Cross-examination.

By Mr. Franklin:

I first became acquainted with the doctrine of church and state in high school, where it was discussed in the social science class. I have had between thirty or forty hours of political science study since then in Cornell University. I have done extensive reading in the form of government and history of government, and especially the government of the United States. That was my main course in college. I do not have in mind now the name of that book or treatise on the separation of church and state. They were text books. I do not accept that doctrine as a tenet of religious belief. I had about a year of law study, international law, contracts, personal property and torts. I had a course in constitutional aspects and social problems in political science. My belief in the doctrine of the separation of church and state is one about which I feel very deeply. It does not influence my attitude towards religious education [fol. 259] and religious education in the public schools as it is conducted in School District No. 71. If the court decides that this is definitely within the boundaries of the constitutional limitations, definitely constitutional, I have no further objections.

I know that many children in the fourth, fifth, sixth, seventh, eighth and ninth grades in School District No. 71 do not take the religious education classes. I do not know the percentage. It may be approximately 80 per cent as you say. It may be that at least 20 per cent, as you say, of the pupils in the fourth, fifth and sixth grades throughout the system do not take the courses. It may be true that

those people have various and different reasons for non-participation. It may be true that not all of them fail to take the courses because of any religious unbelief. I do not admit that a child's non-participation in these classes discloses nothing whatever in regard to his religious belief or lack of it. I know of Jewish children who have failed to participate in the religious education courses because of non-belief in the New Testament.

Q. Do you know whether or not that child has been taking the course in the Jewish religion?

Mr. Chapman: Objection on the ground there is no evidence there is a class.

The Court: Objection overruled.

The Witness (Continuing): The child I have in mind is a boy in the grammar school in School District No. 71, fifth grade. I do not know how many of that class do not take the religious education courses in the school building.

Q. So you do not know whether that child's religious beliefs are pointed out by this non-participation in these classes?

Mr. Chapman: Objection.

[fol. 260] The Court: She may answer.

The Witness (Continuing): I do not think that is a just conclusion to draw from the previous question. I have no conclusive evidence as to whether that boy's religious belief as a Jew is pointed out by his non-participation in the class in religious education. For all I know there may be a half dozen other children in that class who do not take the religious education class.

Q. Say hypothetically, that there are other children in that class who do not take the religious education classes, in this case the Jewish lad's belief in the Jewish religion is not pointed out in any way by his non-participation in that class. Isn't that true?

Mr. Chapman: Objection.

The Court: Sustained.

Q. You simply know nothing about the situation which exists with reference to participation or non-participation in religious education classes in the fifth grade class to which you refer; isn't that true?

Mr. Chapman: Objection.

The Court: Overruled.

The Witness (Continuing): I don't know anything further as far as fifth grade is concerned. I do not know if the Jewish lad's belief in the Jewish religion is pointed out in any way by his not participating in this class. I have just his family's opinion. I have no conclusive evidence. I have not conducted a thorough survey and I do not know of any other children who do not believe in God in School District No. 71 and who have because of that failed to participate in the religious education classes in the public schools. I do not know that when Terry failed to participate in these classes he was not required to disclose any reason for his [fol. 261] non-participation. I was not there. I do know that participation is voluntary, based on the parents signing a request on that card.

My mother was brought up in the Lutheran Church. I do not know if she was a member or attended regularly. I had the benefit of her tutelage and care during my younger years. As far back as my memory runs in childhood, I was going to church and Sunday school whenever I wanted to. I was probably 4 or 5 when I first attended Sunday school. I went for a few Sundays in the year. There was nothing in the Lutheran Sunday School. In the Presbyterian they gave us little cards reciting Bible verses. I may have attended more than half a dozen times. When I went to the Presbyterian Sunday school I was between 6 and 8. I went with my grandfather who was an elder of the church. I assume he believed in God. I never discussed it with him. I think my mother believed in God. I do not know about my father. I do not think he attended any church. I attended the Presbyterian Sunday school regularly for about a year.

Q. Do you remember any of the teachings that you received in the Presbyterian Sunday school?

A. Not especially.

Mr. Chapman: Objection.

The Court: Overruled.

The Witness (Continuing): It is so long ago, it is so hazy in my mind that I do not recall if I studied about God in the Sunday school at that time. It must have been in some way incorporated, perhaps in the Bible verses. I stopped going to the Presbyterian Sunday school when I was about 8. I did not go to Sunday school for some time thereafter until

I became friendly with a teacher at my school who asked me to go to the Episcopal Sunday school. I went there about from 6 months to a year when I was about 10. I do not [fol. 262] remember any of the prayers. We probably learned about God there. After that I did not go to any other church, but attended occasionally. I used to go to chapel occasionally at Cornell University.

Q. Were you still toying then with the idea of believing in God?

Mr. Chapman: Objection.
The Court: Sustained.

Q. Did you go there to worship God?

Mr. Chapman: Objection.
The Court: She may answer.
The Witness (Continuing): I had no convictions whatsoever; at that time I was 19. In my childhood at home I did not hear the doctrines of teachings of the belief in God. I do not know whether at that time my father espoused the same beliefs with reference to God and religion as he espoused here on the witness stand. If he told me about it it made no impression. I can't recall when I went to church after I left Cornell.

Q. When you were married in February, 1934, were you married by a minister in a religious service or by a civil officer?

Mr. Chapman: Objection.
The Court: She may answer.
The Witness (Continuing): We were married by a judge in Chicago. As far as I can recall no form of religion or recognition of God was included in that service.

Q. You did not go before a judge in order to escape a religious form of marriage service?

Mr. Chapman: Objection.
The Court: Sustained.

Q. Did you at any time have any scruples of conscience [fol. 263] against participating in a religious service or form of marriage on February 6, 1934?

Mr. Chapman: Objection. There is no evidence here with reference to her participation, only to her children.

The Court: Objection overruled.

The Witness (Continuing): I felt that the civil ceremony was as legal and binding and not subject to conflict with anything that I might believe. I am not a member of the Free Thinkers Society of Rochester or of any Free Thinkers Society anywhere.

Q. Do you at this time believe that there is no Supreme Being in the world?

Mr. Chapman: Objection.

The Court: Overruled.

A. I would have to ask you to tell me what you mean by Supreme Being.

Q. Do you embrace the opinions of your father, Mr. Cromwell, as expressed in "Rationalism v. Religious Education in the Public Schools"?

Mr. Chapman: Objection.

The Court: Overruled.

The Witness (Continuing): I cannot answer yes or no.

I remember signing a petition for mandamus. I acquainted myself with the material in the petition. What was in there was with my knowledge and approval. I knew that it was a statement that I adhered to the school of thought known as Rationalism, including atheism. I am not a believer in any religious creed or doctrine and do not accept that part of the Bible as true where it is not in accord with reason. I knew that it contained a statement that my views and understanding concerning religion are set forth in the publication entitled "Rationalism v. Religious Edu-[fol. 264] cation in the Public Schools," written by my father, Arthur G. Cromwell. It is still true today that those views are my views. I have not changed my mind since this proceeding was started. That was a correct statement when I signed the petition. I believed it the way I interpreted it. At that time I took an oath that the facts set forth in the petition were true. I do not remember in what form the oath was administered. I am not sure that an oath was administered. I do not know.

Q. Did you at the time have conscientious scruples against taking oaths?

Mr. Chapman: Objection.

The Court: Overruled.

The Witness (Continuing): I would prefer to take an affirmation. If the oath had been by the ever-living God I am sure I would have said something about it. I do not remember whether I affirmed on that occasion.

Mr. Franklin: I move to strike the verification from the petition for mandamus in this case.

The Court: The motion will be denied.

Q. Did you as recently as September 10, 1945, which was Monday of this week, sign your name to the reply to the intervening petition in this case?

A. Yes, sir.

Mr. Chapman: Objection to the whole line of questions. If there was anything wrong with the petition or the verification he should have said so when he filed his answer.

The Court: Objection overruled.

Q. Where did you sign this?

Mr. Chapman: Same objection with reference to the reply.

The Witness (Continuing): I signed it down stairs in the [fol. 265] Circuit Court Clerk's office. Hallie Snyder was the deputy clerk who took my signature. As the instrument recites, I subscribed and swore to it. I did it by raising my right hand. I do not believe Mrs. Snyder repeated the oath and used the words everlasting God. I am convinced she did not. I did not ask her to administer any different form of oath. She did not say anything about the form.

Mr. Franklin: We move to strike the verification from the reply to the intervening petition. Certain advantages are given to litigants by swearing to the pleadings. Whether they do or do not is not a matter of election to them. If they seek those advantages they may do so by swearing to the pleading, but in this instance it turns out that there has been no swearing by anything that binds the conscience.

The Court: From her testimony it appears she did whatever was required of her by Mrs. Snyder. The motion to strike the pleadings will be denied.

Q. Did you have any conscientious scruples on September 10, 1945, against taking an oath to the ever living God?

Mr. Chapman: Objection as irrelevant and immaterial.

The Court: Overruled.

A. I do not know if the oath necessarily implies to the everlasting God. As far as that is concerned, I have no scruples as far as being obliged to tell the truth is implied with the help of Almighty God or anything of that nature, I would have scruples as far as I am concerned, I will tell the truth on my own oath.

Mr. Franklin: I move to strike the answer.

The Court: It may stand with the rest of her testimony.

Q. Do we understand you to say that on September 10, [fol. 266] 1945, you had no conscientious scruples against taking an oath to the everlasting God?

Mr. Chapman: Objection.

The Court: Overruled.

The Witness (Continuing): I had scruples as far as saying or swearing to the everlasting God, when I had no proof. I do not believe in the everlasting God. It is not offensive to me to swear by the everlasting God. Had I understood that I was affirming by the everlasting God I would have asked for any other form that could be given and equally satisfactory to the court, omitting it. I did not do so at that time.

Q. When was it that you first made up your mind that you did not believe in God?

Mr. Chapman: Objection.

The Court: Overruled.

The Witness (Continuing): I could never set a time. I always had the form of belief as I reasoned it out in my own mind.

Q. When did you make up your mind that you did not believe in God, whom you say now you do not believe in?

A. When did I say I did not believe in God?

Q. Do you subscribe to the references in this document "Rationalism v. Religious Education in the Public Schools," to your father's belief as that of an atheist?

Mr. Chapman: Objection, as not covered by direct examination.

The Court: Objection overruled.

A. Does it say that exactly?

Q. Do you contend that you are or are not an atheist?

Mr. Chapman: Objection.

The Court: Overruled.

[fol. 267] A. I am a Rationalist. I subscribe to the expressions in the second paragraph of this petition that "The relator adheres to the school of thought known as Rationalism including atheism."

Q. You do believe as atheists believe, do you not?

A. I believe as a rationalist.

Mr. Chapman: I object to the question and move the answer be stricken.

The Court: Objection overruled and motion denied.

The Witness (Continuing): I adhere to the school of thought known as Rationalism including atheism but I believe as a Rationalist. An atheist is a Rationalist. It has never been in my mind that Rationalism and atheism are equal terms. They are not synonymous, they are different. I am a Rationalist. When I made that statement in the petition that I adhered to the school of thought known as Rationalism including atheism, that was true.

I am a Rationalist. I am an atheist as far as believing in my own mind that there is no God. As a Rationalist I have not proved there is a God in my mind. I will not deny that there is a God in the mind of any person that believes in God, because it is a mental concept. In my mind I have not accepted a belief in God. I have no proof.

I have on occasion had behavior problems in trying to have Terry adjust himself to the other children. Terry has been in fights. I did not know before yesterday that he had a practice of spitting in the faces of other children. I heard him say on the stand that he spit in the faces of other children on occasion, not a practice. I consider that a behavior problem in which I should be interested vitally as a mother. That was a behavior problem that came up with all the rest that may be expected from any normal [fol. 268] boy. I did not think his behavior in that matter is normal, therefore I thought seriously when he did not adjust himself very easily to society. It was first brought to my attention in the third grade. The teacher suggested a remedy, which I applied.

Q. Have you been working on this problem, his failure to work with other children, vigorously and conscientiously and carefully since it was called to your attention?

Mr. Chapman: Objection.

The Court: Overruled.

The Witness (Continuing): I never had to work at it vigorously because it was not much of a problem. I did what the teacher suggested.

I would say I had almost the same problem during his fourth grade as in third. It was merely that he did not do his work properly. So far as adjustment, I was really concerned.

In the fourth grade at the South Side school he used the name Terry. At the end of the fourth grade I transferred him to the Dr. Howard school because the South Side school was so crowded and the Dr. Howard school was just about as near. I also had another boy entering second grade who had been at the South Side school for the first grade and that was over-crowded, and I wanted the boys to go to the same school.

I think I accompanied the children to the Dr. Howard school on registration day when Terry entered fifth grade. I had a conversation with Mrs. Taylor there. I told her substantially that Terry had not gotten along with the other children in South Side school, was behind in his work, and I wanted to transfer him for those reasons. Those considerations were considered. I did not like the [fol. 269] idea of Terry's being called James in the new school. Terry had disliked the idea of being called by his second name. He will probably get over it. It was all right with me. I could not cooperate by doing it at home. I could not remember.

He came home a couple of times with his clothes soiled or a knot on the back of his head, or the spokes of his bicycle broken or bent because his bicycle had been damaged from school. It was aware of those instances. He never tells about what hurts him. He keeps it to himself.

I have no objection to the teaching of the content of the Bible without any effort being made to make the child believe that it is the literal truth or the word of God or anything inviting the idea. It should be a mere reference book. I do not object to the repetition of the Lord's Prayer in my presence or that of my children.

I believe that pray tends to fortify one's belief in God. Notwithstanding that, I have not objected to my children being present in the class room in which that is

part of the opening exercise every day. I have never inquired of Terry what they did.

As far as religious education in the public schools, it would not have a bad effect upon Terry. I do not know it would bother him one way or the other. I did not know it until in court.

Q. Didn't you hear your son yesterday say he came home and told you of this?

Mr. Chapman: Objection.

The Court: Sustained.

A. If he told it yesterday that is when I heard it in court for the first time.

Q. Did you not hear him say that he came home and told you about it?

[fol. 270] Mr. Chapman: Objection.

The Court: Sustained.

Q. Then you had known it before today?

Mr. Chapman: Objection.

The Court: Sustained.

The Witness (Continuing): When he came home he told me of the Bible stories in the demonstration school in the University of Illinois summer school; that was at a different school. I think he said something, in fact, he probably told me. That did not bother me particularly. The idea of the school was for the purpose of showing public school teachers model methods of teaching religion. I registered my child in that class. It is not exactly true that I sent his application to be preferred there over others, knowing that only about twenty applications would be accepted among the hundreds turned in. I had tried several months before to ascertain if he would be in the group, which just planned to have the fifth and sixth grade level. It was not determined. So I went a couple of other times. As soon as it was determined we would be able to put in the application, because I was very desirous of Terry going. Then when it came to the time that they did receive the applications I went over. In the meantime I had talked to Mrs. Janke about him. She was very anxious also that Terry take the course. She is a psychiatrist, in charge of the counselors. She had been helping me with Terry since the third grade.

When it came to choosing a private school in which to put Ariel I made no investigation whether the Lord's Prayer was repeated there, nor did I make any effort to determine whether religious hymns were sung there. I do not know whether they are. I have no particular objection to Ariel attending a private school in which the Lord's [fol. 271] Prayer is repeated or prayed and hymns are sung. My real objection to these courses is because of my belief and my interpretation of the expression of the separation of church and state and the indoctrination of young children. I am more concerned with the separation of church and state. It is true that I have placed my children twice since this suit was started in classes where the Lord's Prayer was repeated and religious hymns sung without making any investigation to see whether or not that was the case, but the conclusions that you drew are not true, that is that I sent my children without investigation. I do not believe in your conclusion that it was because I had so little thought that I did not check. It is not true that I was too busy.

I do not believe in what the Bible teaches unless it sounds reasonable to me in the light of my own education.

Q. Do you feel that your education has been better on the average than others who have been able to participate in the educational system which the United States provided?

Mr. Chapman: Objection.
The Court: Sustained.

Q. Is there something special about your educational background that makes you feel better qualified to arrive at what is reasonable or rational than there is in the education of other people who have had college education?

Mr. Chapman: Objection.
The Court: Sustained.

Q. What part of your education is it to which you attribute your testimony?

Mr. Chapman: Objection.
The Court: Sustained.

[fol. 272] Q. What part of your education is it to which you attribute your testimony.

A. I do not.

Mr. Chapman: Objection.

Mr. Peterson: She says that is the origin of it.

The Court: Objection overruled.

The Witness (Continuing): My Rationalism is the result of being quite unfettered as to thought and belief. I have had a great deal of liberty. I chose my university courses. I have been unfettered as a child in my own home, in working in cooperation with churches and I have been told I was always free to take the views as they came to me. I had changed very frequently. Religion has hardly been given a thought but I think that has not been of prime importance. I have not had the usual religious education.

Q. Do you believe it is easier for one to become an atheist who does not have religious training than it is for one who does?

Mr. Chapman: Objection.

The Court: Overruled.

A. I think if a child has been taught right along, not indoctrinated with the idea that there is a Supreme Being, that the Bible is the word of God and that there are certain elements of fear instilled by these doctrines, whatever the different belief or church, I think it is harder to start with an unprejudiced mind.

Q. Do you mean it is easier to learn atheism if you have no religion in your head or no religious teaching?

Mr. Chapman: Objection.

The Court: Sustained.

The Witness (Continuing): I think that a well-educated person should be free to chose his own religion. That is [fol. 273] why for my children I desire that they have full information on religion and atheism. I will not have them indoctrinated on atheism and I do not want anything else indoctrinated. So far as religious belief, when they study the Bible as a book, without a great secular background, if they go to Sunday school, their belief in God has to come without the immediate associating with religion in their minds; they know about it.

The kind of religious education and instruction which the children receive is not sufficient. That is why I send them to the Unitarian Sunday school.

Q. What treatment does religion receive in this form which you are seeking, as you say, to keep the minds of

the children open? Do you in fact attempt to keep the minds of your children open on religion or do you ridicule it?

Mr. Chapman: Objection.

The Court: Overruled.

The Witness (Continuing): I never consciously ridiculed religion since this case has come up, although we have tried not to cloud our minds, confuse our thoughts too much, get them involved, never have heard it at my home. The pendency of this case has not made an issue in my family, the issue was raised before that.

During Terry's second semester of the fourth year of his schooling I requested that he be permitted to be given the religious education courses.

Q. Is it not true that at that time you told his teacher you doubted the wisdom of this youngster entering those classes because you had ridiculed the Bible stories at home and he might disrupt the class?

Mr. Chapman: Objection.

The Court: Overruled.

[fol. 274] The Witness (Continuing): I do not believe that was the conversation. I am not sure. I don't admit I had ridiculed the stories. The boys have heard it, unfortunately, but not from me here. I imagine they heard from what Terry told his grandfather.

Cross-examination.

By Mr. Peterson:

Q. Is it your thought that anything that the government or any division of the government does to sustain the idea that there is a God is illegal?

Mr. Chapman: Objection.

The Court: Sustained. It has been covered.

The Witness (Continuing): I have never brought to the attention of my children the inscription "In God We Trust" on coins nor have they brought it to mine.

Q. Is it your contention in doing this the government is violating the Constitution?

Mr. Chapman: Objection.

The Court: She may answer.

A. I do not profess to be an authority on constitutional law. I have no way of knowing if that is an infringement. I know this much: In the Constitution of the United States no place does the word "God" appear.

I have read the Constitution of the United States and the Declaration of Independence.

The constitution of Illinois has a reference to God.

Q. Is it your contention that in placing a placard or a pillar in this very building announcing certain churches and giving their location that that is an aid to the church?

Mr. Chapman: Objection.

The Court: Sustained.

[fol. 275] Cross-examination (Resumed).

By Mr. Franklin:

The father of James Terry is still living in the home as husband and father.

Redirect examination.

By Mr. Chapman:

I have never made any special study of religion. Before this matter came up I have never given religious education in the schools much thought. I have been interested in many other things more than in religion.

Q. Why did you give Terry permission to take religious education during the last half of the fourth year?

Mr. Franklin: Objection as not a matter in issue.

The Court: Overruled.

The Witness (Continuing): In permitting Terry to take religion during the last half of the fourth year I took into consideration that he had come home and had asked me to be allowed to take it. I did not approve of it or I would have done it in the first semester.

This summer the school he attended at the University was a combination class of fifth and sixth graders under the supervision of Mr. Smith. It was in conjunction with the course given by Dr. Luther for the University of Illinois. I do not know whether or not any private teachers came in there to teach religion.

Recross-examination.

By Mr. Franklin:

I do not think there was any difference in the way he got along in the fourth grade after he entered the religious education class.

[fol. 276] Mrs. Ralph L. Kelley, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Mrs. R. L. Kelley, 601 South Willis Avenue, Champaign. I am a housewife and a member of the Champaign School Board for District 71. I was elected to that position. As secretary I sign checks with the president. The clerk of the school board keeps the records. I do not have charge of any records. I am a member of the instructional committee. The committee works with the superintendent in selecting the instructors and instructional duties. The superintendent, with our approval, selects the teachers. I have access to the records of the school board. They are here.

The clerk keeps these books under the supervision of the superintendent; she is his assistant. He is under the direct supervision of the entire school board, of which I am a member.

I have with me the school board records with reference to religious education. I am familiar with these records.

I cannot find in these records any record of any money having been paid to the school board for the mimeographing of the cards for use in connection with religious education in the public schools. I have all the receipts and expenditures in these matters.

I do not know how the cards were used in religious education. Nobody under my supervision on the school board had anything to do with preparing or distributing the cards. That was not our problem. I do not know whether Mr. Mellon ever was paid in any way for the distribution of [fol. 277] the cards. I have never given attention to the

courses in religious education in the public schools in Champaign. I have never attended any of those classes. I never made any inquiry into what way or into what was being taught.

M. H. Adams, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is M. H. Adams; 609½ South State, Champaign. I sell insurance. I have had five children attending the public schools in Champaign, none at the present time; one within the last five years; my son.

The matter of religious education in the public schools of Champaign came to my attention five or six years ago, at about the time it was first established. I read about it in the papers; tried to find out who was back of it but did not seem to be able to find anybody who knew much about it. I talked to Dr. Dallenbach, president of the school board at that time. I mentioned religious education to him. Only we two were present.

Mr. Franklin: Objection to testimony of the conversation.

The Court: We will hear it subject to the objection. Then I will rule upon its competency.

The Witness (Continuing): I asked him about the subjects being taught in the religious education, and he told me he did not know very much about it himself; that it had been turned over to V. L. Nickell, superintendent. I saw Mr. Nickell in his office, no one else present. I told him I was bitterly against anything of the kind being taught in the public schools, and he said they were just starting and did not know how it would work out, or anything of the kind—maybe it would not.

[fol. 278] Mr. Franklin: I move to strike that.

The Court: Let it stand.

Q. Do you have or did you have any unusual experience in your home in regard to that?

Mr. Franklin: Objection.

The Court: Overruled. If it is with reference to some child or children in his home he may answer.

The Witness(Continuing): My boy brought some card home. We did not sign it and he took it back to school. A few days later he brought it back home. When he brought the card home I talked with him about it.

Q. Did you notice anything unusual about him?
A. Well, he said—

Mr. Franklin: Objection to what was said.
The Court: He may answer.

A. He said the teacher seemed to think he was lying to her and he did not bring the card home or we would have signed it.

Mr. Franklin: I move to strike.
The Court: It will be stricken. What the boy said the teacher said is not binding on the school board.
The Witness (Continuing): I did not sign the card the second time he brought it home; he took it back to the school. Nothing further was done about it that time. He brought the card back the next year. I did not sign it. I refused to sign the card and he took it back each time.

Q. Was the boy pleased with your failure to sign that?

Mr. Franklin: Objection.
The Court: Sustained.
The Witness(Continuing): My other children went to the school before this was started.

[fol. 279] My son's name is Wallace Adams. He was 18 in April. He is now in the Army. The conversations which I referred to all took place without any third person being present.

PHILIP SCHUG, a witness on behalf of relator, having made affirmation in due form in lieu of being sworn, testified as follows:

Direct examination.

By Mr. Chapman:

I am Philip Schug, 1209 West Oregon, Urbana. I am a minister of the Unitarian Church in Urbana, Illinois, and have been for almost two years. I know Terry McCollum.

He attends Sunday school at my church. His mother does not, although she brings the boy and I presume takes him home. The other two boys come.

I am familiar with the doctrines and teachings of the Unitarian church. Inasmuch as every Unitarian has the right to think as he pleases it is difficult or impossible to answer whether the teaching that Adam and Eve were the first man and woman are in conformity with the teaching and doctrines of the Unitarian Church, but knowing Unitarians as I do I would assume there were some that actually believe that, or perhaps a small majority.

Mr. Franklin: Objection.

The Court: Sustained as to the assumption.

The Witness (Continuing): As far as my knowledge of them goes the great majority do not accept it in that form. I do not know of any who did accept as truth the teaching that prophets once lived who could foretell the future. I [fol. 280] do not know of anyone who teaches that or makes it a practice in the Unitarian Church. The teaching that Elijah went to Heaven in a chariot of fire is accepted as a story that is in the Bible, not as a true fact.

Q. One of the religious education teachers here said that she taught the children that Heaven was in the sky.

Mr. Franklin: There has been no such testimony.

The Court: Objection sustained.

Q. Does the Unitarian Church in its doctrines, teachings or belief teach a connection between Heaven and the sky?

Mr. Franklin: Objection, as based on the assumption that there were teachings common to all the Unitarians, but this witness has said that each has the right to think as he sees fit.

The Court: I will permit him to answer.

The Witness (Continuing): From my knowledge and understanding of Unitarianism and the Unitarians whom I know there is not, to my knowledge, any teaching in any connection between Heaven and the sky. I do not know of any Unitarians who accept the story that Jesus was the son of God as his father and a woman as his mother as in conformity with their belief. I do not know of any who accept the story that Jesus died and came back to life again in the human body. I do not know of any who accept the story that people who died come to life again as human

beings in a resurrection. I do not know of anyone who accepts that as being true.

The prevailing view among Unitarians is that God is some spirit, a force or thing or agency that lies behind the universe. There are other views that are widely accepted in the church. A large minority of the church take the view [fol. 281] that the entire question is outside of the scope of human experience, and they hold no opinion as to what he is or where he is or who he is or if there is a God. The majority view in my church does not speak of the King James version of the Bible as the Word of God, nor does the minority so speak of it. I seriously doubt that Unitarians speak of it as Holy Scripture.

Cross-examination.

By Mr. Peterson:

The title "Reverend", by which I am addressed, is a conventional title given to ministers of various churches, not necessarily ministers of the gospel. I took my theological course at the Evangelical Theological Seminary in Naperville, Illinois, and the Chicago Theological Seminary. I have been in the court room for several days and am interested in the result of this law suit. I came out of school in 1942. I am 31 years old. During the year and a half between my leaving school and taking up the ministry I studied psychiatric training in the Elgin State Hospital for mentally deficient. This was my first parish.

I am not sure I can answer your question as to whether I believe in a God. I recognize the relationships which are called God by other people. I do not give any credence to the idea that there is a personal God or anything that seems to be personal behind the universe. When I think of the term God I think of it as a term which is used by many in the same way I would use the term conscience or super ego.

When other people talk of God I have the working definition of what they are saying. Without evidence I would not wish to make a conclusion or an assumption as to whether there is a God. I only believe if it is susceptible of demonstration which I consider in keeping with the very best [fol. 282] scientific procedure of the day. In the Sunday school that I teach, the children are taught the various religions, ideas and theories insofar as we are able to,

taking into account a good many of them, from many periods, and the various cultures, and they also are taught the modern theories in this same respect. They are taught there are people who believe spirits exist and that there are people who believe spirits don't exist. Insofar as I am able to on these controversial questions I teach the positive and the negative; I try to teach a number of varied opinions, and try to cover the entire gamut, insofar as I am able to. Insofar as teaching the Bible stories, that is difficult because I am not so sure that they are always from the Bible. I read them from other written literature, literature written for children, publications from regular publishing houses; and we also follow them in the Bible, in the Koran, and other scripture of various cultures. In these lessons we refer to the alleged existence of Christ, to the creation of the earth as they are in the Bible. Right now we are teaching with reference to the creation of the earth, as they are in the Bible, and we are going into many different stories which are read to the children for the context, and we go into all of those stories that we are able to, and we get the children's opinions, asking their understanding, and they tell some they have read. The youngest group that are taking this kind of work would be about five or six years old. We do not give them what they could not understand. We have work for all of them. For the most part it is not based on Biblical stories. The literature in that class for the most part is based upon Biblical stories and stories from the scriptures of various cultures. The seven and eight year old class gets material that is based on Biblical stories, in addition to which they sing hymns. They sing sacred [fol. 283] hymns and also hymns not considered very sacred by some folks. They do not learn the Lord's Prayer. They learn the Ten Commandments only insofar as we expect them to know what they are, or doxologies, or other sections of law from various cults. We study the Ten Commandments.

The church school is one that I instituted at the beginning of the semester. Up until now we have not referred to the 23d Psalm; as I understand it the 23d Psalm is studied along with some other psalms of the church school. I do not know if it will continue.

I have not stated that I believe that there is some controlling power in the universe commonly referred to as God. It is not correct to state it that way.

There are some in my church who would so state it. A definition for people who take this position is agnostics. We have many such and we have some non-believers. We would probably have some atheists, and some that are commonly known as Christians by their own definition. We allow perfect freedom in that respect. My definition of a Christian is a person who considers Him as his Lord. There are a number of the people who feel that the word Christian has considerable value, social value, religious value, and they like to apply it to themselves. That is without acknowledging that there was a Christ, except as it is the conception in the minds of some people. I do not say that none of them call themselves Christians because they believe that there was a Christ, and I would also say that the ideas that surround what they call the word Christ, the spiritual or religious values are also ideals which are accepted by these people, and for that reason they use the term. That ideal is based on the teachings of a man called Jesus. I prefer not to use the term Christ.

[fol. 284] Terry McCollum's reference to this "bunch of words" that he learned there was to certain poems which are taken from various sources, scriptures of various cultures, from modern day writers, such as psychologists, psychiatrists, anthropologists, and any who write in an ethical or religious vein.

If any prayers are said in my church they are said by members or attendants without my knowledge. I do not bring or have any said in my church. I do not say prayers there.

Redirect examination.

By Mr. Chapman:

I do not teach that Jesus was more divine than anybody else. I do not ask the children to accept anything on faith. I should tell the children carefully that these are basic assumptions which they are privileged to honor, and as we get around in the world we must be continually questioned and challenged, as we develop and learn. I teach the children to challenge the Bible as to truth. I do not teach them that there is any teaching or theory or doctrine that they cannot challenge.

I teach about witches in connection with spirits. I teach about the birth of Jesus and I teach about Santa Claus.

The story comes on quite naturally as another folk tale that people repeat.

Recross-examination.

By Mr. Franklin:

In regard to the stories of Santa Claus and Jesus Christ, I consider the folk tales in two different categories in this respect. The Santa Claus story is not as deeply tinged with religious feeling and not as deeply implanted in the cultures as is the story concerning the birth of Jesus. That would naturally be considered in the minds of people as of [fol. 285] different value. Otherwise I consider them as just both stories that are quite meaningful to people. I cannot answer yes or no the question whether it is about equal evidence of the existence of Jesus Christ as there is a Santa Claus.

Redirect examination.

By Mr. Chapman:

It is difficult to answer yes or no because I see considerable evidence of the existence of a man named Jesus as we find it in the scriptures, the Bible, and do not deny such a person existed. I find no evidence of the personal or impersonal existence of a Santa Claus except in the imaginations of certain people.

Recross examination.

By Mr. Peterson.

I found evidence which contributed to the myth of Santa Claus, but not any that there had been a Santa Claus.

Mae Chapin, recalled as a witness on behalf of relator, having been previously sworn, testified further as follows:

Direct examination.

By Mr. Chapman:

The card in evidence is one of the cards that were given to the sixth grade pupils this year and were printed for my own use. These are printed for the purpose of distributing

to the sixth grade pupils for entrance into the educational course. The others I printed myself and paid for myself. That card has been printed under my supervision. This was mimeographed about two weeks ago, I think, in my own house on my mimeograph. The sixth grade and afterward had been done by the office of Mr. Mellon, the superintend-
[fol. 286] ent, and the school board was paid for the work done in the office.

Relator's Exhibit 3 for identifiaction is a document which I have never seen before.

In May, 1945, the board of education printed cards. The school board mimeographed the cards for me in May, 1945, and was paid for the mimeographing by me for the Council on Religious Education. I do not know what arrangement was made before that.

The child who took religious education had a separate card signed each year. When Miss Bash testified here that she did not sign a card this year that is explained by the fact that in junior high school the pupils make out their schedules and take them to their parents for approval. If religious education is on the schedule that means the parents approve, so when they go from sixth grade to seventh grade the cards are given to them, and if they are in junior high school and religious education appears on their schedule, if they sign up for it that means the parents approve when they approve the schedule. My understanding is that the students in junior high school take their schedules home to their parents; they place their written approval on it. I do not know what becomes of the schedule after they bring it back to school. It is not turned over to me.

The pupils usually pay 25 cents a semester to me for the books or material that they use, both in junior high school and in the grade schools. For that we give them a manila covered copy book, an envelope in which to place their material, manila folders, and pictures and other material. Sometimes we give them books or mimeographed material and text books.

This material we obtain from various places, the pictures from Chicago, the envelopes and manila folders we usually
[fol. 287] buy locally from private dealers. The pictures may be of St. Joseph or others.

After I obtain the 25 cents I put it into the account of religious education. I keep the fund and use it for material.

I would say the attendance in the fourth grade religious education class is larger than in the junior high school. I think the attendance in the fourth, fifth and sixth grades is almost level. There is no big variation. We do not have a large proportion attending the seventh grade who do not attend in sixth or a larger proportion in eighth grade than in seventh.

The fees are collected from the students who take the Catholic course and are turned over to the Catholic father. I collect in the junior high, not in the grades. I do not think I have collected any fees from the Jewish students this year. I turn the names of Jewish pupils over to Rabbi Silverman. Right now there is no class of Jewish students, nor last year. I do not remember if they taught one the year before, but they did the year before that. The registration cards for this year are not all in. When we had the Jewish class it was taught by a young woman from the University.

In the junior high the attendance list is in the office. If any pupil is absent we turn in a slip just like any teacher would to the superintendent's office. The slip is a piece of paper with a number of hours in the school day and a square, and the teacher of the particular room for the particular hour records the absentees. It has their names and the grade and the section to which they belong. It is the same sheet that the geography and history teachers and all the other teachers use, and is furnished by the school. I [fol. 288] keep my own record of absent pupils in my grade book. I have a list of pupils that take my class. I obtain the names from the cards. In the junior high school I obtain them from the principal's office just like any other class.

Cross-examination.

By Mr. Rall:

The seventh, eighth and ninth grades are in the junior high school.

Cross-examination.

By Mr. Franklin:

I do not believe there are many Jewish children enrolled in our public schools. Where they do not have Jewish classes it is for lack of members to support the class.

Q. What is the reason that children do not participate in the religious education classes as fully in the junior high school as they do in the earlier grades?

Mr. Chapman: Objection, as calling for a conclusion.

The Court: She may answer.

The Witness (Continuing): One reason is because of schedule difficulties. Several girls and boys have come to me and stated they wanted it and had signed up for it, but the schedule made it impossible for them to take it because we fit into the schedule whatever the hour happens to be. If you have a set class for a set hour you cannot take it. Another reason is that some of the pupils have had it in the fifth and sixth grades, perhaps, and they do not feel that they have the time to continue it. With some pupils perhaps it is lack of interest. Perhaps the parents of some feel they would rather have them do something else with the [fol. 289] time. I have not heard all of those reasons assigned by pupils in the public schools for not attending religious education classes but I have heard some of them. I have not heard of religious scruples given as a reason for not participating by any other than James Terry McCollum and his mother. It has not come to my knowledge that failure to participate in these classes points out any religious difference between those who participate and those who do not.

Herbert L. Miller, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Herbert L. Miller, 104 North State Street, Champaign. I am an ordained minister and affiliated with the Episcopal Church in Champaign. I am president of the Council on Religious Education since June. I was elected at a regular meeting of the council, which is made up of representatives, both lay and clerical, of various churches. It is my duty to preside at the monthly meetings of the council and to have a general knowledge of the working of the system. I have nothing to do with the employment of teachers; the personnel committee attends to that.

I have been a member of the council for several years and have been on committees but have held no other offices. I was on the Curriculum Committee in 1941 or 1942. That committee would meet and we would go over the materials that were submitted and chose material for the year. With me on that committee were Mrs. L. E. Workman and Mrs. Dean. Mrs. Workman was affiliated with the Congregational Church. I do not know Mrs. Dean's affiliation. I never made inquiry. I met her when these courses started. [fol. 290] The committee would meet at the beginning of the year. I have no idea with what church she was affiliated. It never came to my attention. I imagine she is a Protestant because I do not select the material for the Catholic classes or help them in their selection. In all the time we were on the Curriculum Committee we selected material only for the courses offered the Protestant children, so I presume she is a Protestant, or so classed herself.

The materials for teaching would be displayed on the table at these committee meetings and we selected the materials to be used. That was five years ago, and I do not remember what materials we selected. We took into consideration all the material that was there, accumulated from several sources by several people. It was general religious matter accepted by the great Christian church throughout the world, that is, the general run of Christian churches which are in agreement on fundamentals. I cannot name them; there are over 200. That includes the Catholic church. We did not see their material because it is for them to select their own material. We selected for this group as Protestants.

I doubt that we had any material there furnished by the Free Thinkers. I do not know if we had any furnished by the Christian Science; probably. We did not have some from all the great churches. I do not know whether we had any furnished by Jehovah's Witnesses or the Mormons. I am not sure that I would include the Mormons among the great religious denominations, possibly; I said they were all great.

If the court ordered the school board to prohibit the teaching of religious education in the schools that would not be of particular concern to me, the course would go on anyway, regardless of where they were taught. I would [fol. 291] be concerned if the teaching were discontinued in the schools. I am interested in maintaining these classes

in the public schools. I do not recall whether we took into consideration any literature furnished by the Seventh Day Adventists. It was likely all Protestant material. I do not recall selecting any that was not. I don't recall a Koran there or any books on Mormon. If there had been any I would probably recall it. There might be a book on Mormon in the public schools of Champaign as a text book. I doubt that Miss Chapin in mentioning the Koran meant that she taught from it. There was no book on Mormon. I have a general idea of what is being taught in the general religious course. Mormon is not being used as a text book. Such a book might be used as a reference but it is probably not being used. Nor is Zoroastrian or Mohammedan. Buddhism may be referred to from time to time. Shintoism is probably not likely.

Cross-examination.

By Mr. Franklin:

The curriculum commitee has had the policy of having churches bring in any material being used, and to prevent any material being used that would bring up controversies or difficulties. The things that are selected for our courses are what is acceptable to the great mass of Christians. While we served on the curriculum committee we did not select for teaching any doctrinal material or teach particular beliefs of any church. This policy has been followed in the curriculum committee under my supervision as president. It is open to any religious faith to present to the curriculum committee suggestions about materials or the materials themselves from which selection may be made. I have never heard of any Protestant denomination or their [fol. 292] representatives protesting to the curriculum committee about the material selected or to the manner in which they were selected.

Q. Are you in position to testify regarding the relative number of pupils who did and did not participate in these courses in the various classes?

A. Yes.

Mr. Chapman: Objection as not cross-examination.

Mr. Franklin: Mr. Chapman has interrogated about his qualifications as president of this council, his general ac-

quaintance with the manner in which it was being conducted, and I think he has operated up the whole field.

The Court: Sustained as not cross-examination.

Cross-examination.

By Mr. Rall:

There is available enough material for the purpose of teaching religious education from sources which represent the common, fundamental concepts of a number of people of Protestant denomination.

Redirect examination.

By Mr. Chapman:

Anyone who wishes may submit material to be used or taught in these courses. We cannot accept everything that is offered. There is too much offered. When I was on the curriculum committee material was submitted that was in conflict with the teaching of my own church. It was probably not acceptable to a good many churches.

[fo. 293] Rabbi Judah Goldin, called as a witness on behalf of relator, having been duly sworn, testified as follows:

Direct examination.

By Mr. Chapman:

My name is Judah Goldin, assistant national director of the Hillel Foundation. Before coming here I taught four years in Duke University. I have been away for two years. I lived here from '39 to '43, during which time the religious education system was installed in the Champaign schools. It first came to my attention when I was called to a meeting held in the Wesley Foundation. Mr. Cartlidge presided. It was attended by about a dozen of us. I do not recall who they were. I cannot remember exactly what happened. I remember religious education in the school system was discussed. I probably participated in the discussion.

Q. If you remember, do you recall whether you approved or disapproved at that time?

Mr. Peterson: Objection.
Mr. Franklin: Objection.
The Court: He may answer subject to the objection.

Q. Do you recall whether or not you approved or disapproved of religious education in the public school at that time?

Mr. Peterson: Objection.
The Court: Sustained as to form.

Q. Do you recall any discussion with reference to teaching religious education in the public school buildings of Champaign during school hours?

Mr. Franklin: Objection.
The Court: Sustained as to the form.
[fol. 294] The Witness (Continuing): This meeting was called about religious education in the public schools. That is what was being discussed.

Q. Do you recall whether you approved or disapproved of it at that time?

Mr. Peterson: The same objection.
The Court: He may answer.
The Witness (Continuing): At the time it was discussed I said I wanted to know first whether it was legal and if it was determined to be legal the Jewish group which I represented would continue as we were, going along with our supplementary religious education. If the project went ahead we would cooperate.
The first year, 1941, a young man by the name of Nogah Bethlahmi taught in the public school buildings of Champaign during the regular school hours of the secular days. The following year the Jewish religion was taught in the public school buildings in Champaign during the regular school hours by Miss Helen Simons. Since then there has apparently been nobody there to teach it. The teaching on Jewish religion was under my supervision when I was here. I did not teach any of the Christian religion in connection with that teaching; I do not teach. What I teach is in accordance with the Jewish belief.
I am affiliated with the B'nai B'rith Hillel Foundation. B'nai B'rith has no doctrines and beliefs. I am a member of the Rabbinical Assembly of America. Its doctrines and beliefs are Judaism. I am familiar with those doctrines.

Within the doctrines and teachings of Judaism it is accepted as true that there was a man called Jesus, the records show it. According to the doctrines of Judaism God was not his parent in the physical sense. According to its doctrine Jesus was no more divine than any other man. When you [fol. 295] ask me "Do you accept the story as true that Jesus was killed and after he had been dead two or three days came to life again", the story is in the New Testament. So far as Judaism is concerned, that is a doctrine which history has given us. That is what the story tells us.

Judaism is a way of life which has a system of its own. Christianity is a way of life which has a system of its own. Judaism has nothing to do with Christianity. Christianity has nothing to say about Judaism in that sense, except that Jesus is Jesus and Judaism has nothing to say about a man called Mohammed. Jesus or Mohammedism has nothing to say about Judaism in that sense. If I am asked "Does Judaism accept that Jesus as Christ was crucified, that He was resurrected three days later", my only honest answer can be: "That is what the New Testament teaches us." "Acceptance" is decidedly mental. Obviously, Judaism cannot react one way or the other. The New Testament is not incorporated as a part of Judaism. The B'nai B'rith is a fraternal order.

ELMER C. BASH, an intervenor, called as a witness on behalf of relator, under Section 60 of the Practice Act, having been duly sworn testified as follows:

Examination.

By Mr. Chapman:

My name is Elmer C. Bash, 512 South Highland, Champaign. I am a roofing contractor in Champaign at 606 N. Walnut Street, under the name of Bash Roofing Company.

I have filed an intervening petition in this proceeding. I desire that my daughter, Wanda I. Bash, continue her work in the ninth grade on released time. I am of the opinion [fol. 296] that her well being, education and character will be benefited by such education. I base that opinion on our experience in the past from the results of the classes she had the last three years. I do not claim to base my opinion on any particular facts, it is an intangible thing. I believe

that it has taught her tolerance, taught her to get along with fellow classmates much better, and has taught her something about the Bible that she did not have before, and I hope it will continue. She began taking these classes in the 6th grade. Her association with children has improved during that period. Previous to this period she was not active in outside interests outside the classroom, as she had been later, but these outside interests brought her in contact with other children of her own age. I do not know that I am able to separate the benefits of religious education from the education she received in other courses.

I have another daughter, Shirley, who has taken the course in religious education She started taking the course in 7th grade, Wanda started in 6th grade. I cannot remember noticing any improvement in Shirley's tolerance and association during the first year she took the course.

It is my desire that they continue to take religious education, Protestant. I am affiliated with the First Christian Church. There they have Sunday school on Sunday morning. I do not know if they have any classes for children there during the week. I have not attended classes of the religious education course in the Champaign schools. The only study I have made of the material used for teaching in the class is when it has been brought home by the children and by the discussions which the children have had. It has been agreeable. It does not appear that they are learning anything there that I do not believe in.

[fol. 297] VASHTI MCCOLLUM, the relator, having made affirmation in due form in lieu of being sworn, testified as follows:

Cross-examination (Resumed).

By Mr. Franklin:

I have seen Defendant's Exhibit 300 for identification before. That is my handwriting. I gave that to my son, James Terry McCollum, during the time that he had enrolled in the 4th grade in the South Side School for the purpose of having him hand it to his 4th grade teacher.

(Whereupon said document was offered and received in evidence as Defendant's Exhibit 300.)

Defendant's Exhibit 300, being a letter in words and figures as follows:

"DEAR MISS HOLLINGSHEAD:

Terry says he wants to join the Religious Ed. Class so I'm sending you this note to say it is O. K.

Sincerely,

VASHTI MCCOLLUM."

Whereupon relator rested.

MOTION TO DISMISS OR TO STRIKE AND DENIAL THEREOF

(And thereupon at the conclusion of the evidence on behalf of relator defendant moved in writing to dismiss the petition or, in the alternative, to strike certain allegations thereof.)

Mr. Rall: The intervenors join in this motion.

The Court: The motion will be overruled at this time without prejudice to your right to renew it at the conclusion of all the evidence.

The Court is going to require all the parties to put in all the evidence they expect to offer and rely upon without prejudice to your right to raise at the close of all the evidence all the questions that you are raising in this case. [fol. 298] Mr. Franklin: I believe the court is preserving all of the rights in the matter, but we object to the overruling of the motion at this time.

(Whereupon the court overruled without prejudice the motion on behalf of defendant at the close of plaintiff's evidence with leave, without objection on behalf of relator, to renew said motion at the close of all the evidence.)

Whereupon the defendant and intervenors, to maintain the issues in their behalf, offered the following evidence, to-wit:

ELMER C. BASH, an intervenor, called as a witness in his own and on defendant's behalf, having been previously sworn, testified as follows:

Direct examination.

By Mr. Rall:

Both my daughters, Shirley and Wanda, took these courses in religious education in the public schools of

Champaign with my consent. I discussed it with them at the time they brought the cards home for me to sign giving my permission to take the course.

Q. At that time or at any other time did either of the girls ever state to you that they wished to take the work because if they did not do so they would be unlike other children?

Mr. Chapman: Objection to the form as leading, and also as calling for testimony out of the presence of the adverse parties and the relator.

The Court: Overruled.

A. No question was ever raised.

Q. Did they at the time or at any time in your presence or to your knowledge criticize any of the pupils who did not take work in religious education?

[fol. 299] Mr. Chapman: Objection; criticize is a conclusion.

The Court: Sustained.

The Witness: (Continuing.) They never made any comment in my presence about students who did not take the work in religious education.

Alice J. Bash, an intervenor, called as a witness in her own and on the defendant's behalf, having been sworn, testified as follows:

Direct examination.

By Mr. Rall:

My name is Alice J. Bash; 512 South Highland, Champaign. I am the wife of Elmer C. Bash and am one of the intervening petitioners. I am the mother of Wanda I. Bash and Shirley.

Shirley has taken the work in religious education through her 7th and 8th grades. She is now in senior high school. The work is not given in the senior grade in high school. Wanda has taken the work in the 6th, 7th and 8th grades. She is now in 9th grade, the last year of junior high school. It is my wish that she continue with the work in religious education during her 9th year.

At the time they started the work they asked permission of Mr. Bash and myself to take it. In the grade schools we signed the cards. In the junior high school Wanda wrote "Course in Religious Education" in where it says "Do you wish to take band, orchestra, or religious education," and I signed it. That is the schedule they fill out and get your written approval. At all times I knew and approved of her taking the work.

Q. Do you believe the work in religious education which each of the two girls took has in general been beneficial to them?

[fol. 300] Mr. Chapman: Objection as leading.

The Court: Sustained as to form.

The Witness: (Continuing.) I think taking the work in religious education has developed their character. I feel it is a part of their education for living every-day life.

At the time they asked my permission to take the work they did not, nor have they at any time, stated as a reason for wishing to take the work that if they failed to do so they would be set apart or would be unlike other children. Many of their friends did not take it. It has not made any difference in their friendship. They have made no comment about their not taking it.

Cross-examination.

By Mr. Chapman:

These children received religious education in my home. We read a little book called "The Upper Room", and sometimes read the Bible. The thirty minute period is devoted to religious education in the school. We read those materials sometimes. It has been a book called "Interesting Questions." It takes up character building, such things as boys and girls should do when they are in groups, for ordinary training. I believe it is synonymous with religion. I would not take anything for those evening meetings together. The book deals with character building and religion. Religion is part of character building. I think that in ordinary, every-day living parents should be models rather than critics. I try to set before my children my example of good character myself. I do not believe that chil-

dren have a tendency to imitate any of the people they live with. Children learn by imitation sometimes; I believe that children learn some things from people they live with because that gives them a chance to make up their own minds how they should choose to live. I have given some atten-
[fol. 301] tion to teaching them ordinary morality rules of conduct for social relationship with other people, such as rules of politeness, traits of courtesy; most parents do.

I have given quite a bit of attention to the raising of my children; one of them was elected to an honor position last year in 8th grade.

My two daughters attend the church Sunday school regularly. I attend church too. I do not know if the church has weekday classes. My children do not attend any. My children make high grades in school and engage in extra-curricular activities to some extent. They have achieved some scholastic honors. I rarely assist them with their home work. I took quite a bit of interest in their learning from the time they started school. I do not go to the Bible to decide what to tell a child to do any more than to the dictionary. In teaching my child right from wrong the Bible is uppermost in our minds. That is the way they are guided to the thing that is right or why it is wrong. They have to learn that through everyday living. In my opinion, this 30 minutes of religious education in school is beneficial to them. I believe it would be more beneficial if they had an hour of it. A day of it might be overdoing a good thing. There is an extreme in everything.

Q. Did you ever consider sending your daughter to theological school?

Mr. Peterson: Object as immaterial.

The Court: She may answer.

The Witness: (Continuing.) We have not considered sending them. We prefer our children be taught the Protestant faith. I think it would be interesting for them to know about all religions. I prefer the Christian Protestant religion. The denominations do not make too much differ-
[fol. 302] ence. I was a Methodist, now, I belong to the University Place Christian Church. I do not know anything about the Holiness Faith Healers with the rattlesnakes. I do not claim to be acquainted much with all the Protestant denominations.

Q. How many Protestant churches are you familiar with?

A. Are you getting into the Bible doctrine of all of them? I am not too familiar.

Mr. Peterson: There should be some limitation, it is no part of any issue.

The Court: Objection overruled.

The Witness (Continuing.) I am not a student of religion nor an author on the doctrines of the Christian church. I do not claim to understand the doctrines of all the other churches. I have visited various churches and attended their services. I have not attended the church of the Holiness Faith Healers nor any meetings of Jehovah's Witnesses. I do not claim to be an authority on their faith nor to be familiar with them. I am not too familiar with Christian Science or Mormons.

I think every parent prefers his children to be taught the religion that the parent prefers. If we had teachers from the Christian church teaching religion I would not necessarily prefer that my children attend their classes; I would just as leave they attended Methodist.

Redirect examination.

By Mr Rall:

When I said I prefer my children be taught the religion I prefer myself I presume I was speaking of Protestantism generally. From my experience in attending various Protestant churches I believe there is a large mass of fundamental information and religion upon which Protestant denominations generally agree.

[fol. 303] Recross-examination.

By Mr. Chapman:

That material is the Bible, upon which they all agree. Certain sects of Protestants agree on the Bible. I have never investigated why those different churches interpret the Bible differently. There is some difference of interpretation of the Bible between the Methodists and ministers of the Christian church. I do not know that the ministers in my church interpret the Bible a little differently from the Presbyterians. I think there is a difference in the interpre-

tation placed on the Bible by the Christian Scientists than the interpretation of the ministers of my church.

Q. Do you know of any way of accounting for these different churches among the Protestants having different understandings of the Bible?

Mr. Peterson: Objection.

The Court: She may answer.

Q. Do you believe that the differences in opinion about the Bible have caused the differences between many of the churches?

Mr. Peterson: Objection as not cross-examination.

The Court: Overruled.

The Witness (Continuing): I do not know. I have not given that matter any thought. I want Protestantism as I understand it generally taught to my children. I do not especially prefer the Protestantism of my own church over that of other churches. I think Protestantism is a good faith. I think it is good to learn about all religions so they will know how to make up their minds on which religion they wish to pursue. We do not want to say you have to do this or you have to do that. They are capable of thinking things out for themselves, I think.

[fol. 304] Eugene Harvey Mellon, called as a witness on behalf of intervenors and defendant, having been previously sworn, testified as follows:

Direct examination.

By Mr. Franklin:

I am superintendent of schools here. I have seen the exhibit marked Defendant's Exhibit 301, which was previously marked Relator's Exhibit 3 for identification. That is a monthly report of moneys received which I make to the board of education. This report is turned into the township school treasurer and signed by him as money received. It bears his signature. It was delivered by him and signed on the date it bears. It was prepared in the regular course of business in my office.

I have general charge and supervision over both the teach-

ing staff and the physical plant equipment in the different schools of the system. With the board of education I make the rules and regulations for the use of the physical equipment and the rooms, and for the guidance of teachers under my control.

The elementary school teachers, grades 1 to 6, are expected to be on duty at 8:30 in the morning; the junior high school at 8 o'clock; the senior high school at 7:45. They are expected to remain until 4 o'clock in the afternoon. On many occasions they stay longer. The school building is expected to be heated at regular school temperature at 8:30 in the morning. We usually get up to that temperature at 8 o'clock. The custodian leaves the grade school building at 5 o'clock, and it is kept up to that temperature until that time. In the junior high school the building is heated all the time. We have night janitors. There have been no changes in the hours during which the junior high school [fol. 305] or any of the elementary school buildings have been heated since the religious education classes were commenced in the public school buildings. No more heat is required or occasioned by reason of religious education classes in these buildings.

The elementary school rooms are cleaned once a day, usually in the evening. Sometimes they get cleaned before school starts in the morning, if it is not all done the day before. I am not sure whether a room is cleaned every day whether it is occupied by one class meeting or more. If they are in use they are cleaned, whether they have been used much or little.

The general practice with reference to artificial light in the class room is to use sufficient light, as much light as the child needs. But the teachers are warned several times during the year to use as much natural light as possible. That is for health reasons as well as economy. The school rooms are built to procure as much natural light as possible. The natural light falls over the student's left shoulders. It is customary to use the artificial lights during the course of the teaching day when they are needed. Generally that would be on a dark day. Most of the rooms can be used most of the time without very much light.

The blank which Miss Chapin spoke of on which she records absence of any pupil registered in the religious education class would be printed and used if there were no religious education classes in the schools.

Q. Has the board of education in this case expended or paid out any funds in aid of these religious education classes?

Mr. Chapman: Objection. That is one of the things the court will have to determine.

[fol. 306] The Court: Objection sustained.

The Witness (Continuing): I am acquainted with the expenditures made by the defendant school district. No moneys to my knowledge have been paid out or expended by the defendant in connection with or because of or for the benefit of the religious education classes.

In the conversation which Mrs. McCollum testified concerning, where she said I said "If the American Legion objected I would not allow the Jehovah's Witnesses sect to use the public school buildings for religious education and instruction," I did not mention the American Legion. Mrs. McCollum said, "What would you do if the Jehovah's Witnesses came in and taught children not to salute the flag". I said "That would go a little further." I am familiar with the Supreme Court decision regarding saluting the flag and know what we could do and could not do. The situation has not arisen.

These schedule cards are prepared for use in the regular school program under my control and supervision. As far as I know they were in use prior to the institution of the religious education classes in the school buildings. That is a regular educational practice for our own convenience.

Cross-examination.

By Mr. Chapman:

No funds of any kind have been applied in any manner, shape or form by the school board with reference to religious education. I am employed by the board of education of school district 71. They pay me a salary. I receive no other compensation. I render services to people other than the school board. I am not paid for that work. I do [fol. 307] some work in service clubs and churches. At my office I sell war stamps and war bonds and collect money for the community chest, and a lot of other things that we do. The PTA comes into my office many times to hold conferences.

I usually appear at work at 8 A. M. and leave my office at 5 o'clock, with time out for lunch. I devote a lot of my time to my duties other than those I have mentioned. We have had inquiries from various cities about our religious education program and have sent out a few letters in answer to the request. I prepared a form letter. It would not take as much of our time. The school board paid the postage. The stationery was school stationery. My assistants in the office addressed them. Sometimes I signed them; probably they were mimeographed with my signature on. They are all paid by the school board. In the junior high school we have a schedule form for the students to fill in. Those schedules are printed commercially. We buy them printed at the expense of the school board. They are distributed through the principal's office in the junior high school. The word religious education does not appear on the blank anywhere that I know of. The child has to write it in. The blank is approved by the parents and then goes back to the principal's office and is kept there. The only record of his taking religious education is on the blank. That is a registration blank which we keep in our junior high school office. That is financed by the school board. We should have a collection of registration blanks there of people who took the junior high school work for some years.

Last spring I think 500 of the cards that are used in the grade school were mimeographed in our office by our clerical [fol. 308] staff. We had some old stock of colored paper that we used. That paper belonged to the school board. We used the mimeographing machine in my office. Miss Chapin came in and got those cards. They were lying there until she came. A clerk did the mimeographing. He was employed by the school board. I think she paid $1.05 for the mimeographing of those 500 cards. That covers all the expense of the cards and labor. That is what it was applied on. I think that is the first time we had prepared any cards. 500 lasts two years. I am not sure that these are the only cards we prepared for her. I have only been there 2½ years. During the time I have been there I do not remember any others. 27 janitors are employed in the entire system. We have 1½ janitors for the Dr. Howard, one works afternoons only. He has other duties during the forenoon at other schools. We have one man there all the time during the

day and a man who comes in the afternoon. Each is paid a fixed salary for doing all the janitor work that is done in the building.

The religious education classes are sometimes conducted in class rooms not being used by other classes. That is done at the Colonel Wolfe School. The same class rooms in which religious education classes are conducted are sometimes used for other classes. We do not use any class rooms for religious education that we do not use for other classes.

I think we have about 6 classes a week in religious education in Dr. Howard School. That would be one class in each 6th grade, one in each 5th grade, and one in each 4th grade, once a week. I am not sure if they are nearly all conducted on the same day. The building is heated with coal bought by the school board for heating the building. In the South [fol. 309] Side School the basement room used for religious courses is a sort of a school library. It has the same temperature all the time. It is a little ante room with one end of it fixed up as a library. I take it that is what Father Higgins referred to. I cannot answer whether when a room is set aside for teaching a religious education class it is not used by other students during that class. These class rooms are all under my supervision. I do not believe that the question has come up but I think our policy will be not to permit them to be used for religious education classes while students were using them for something else. We would try to keep them separated as much as possible. I would rather Father Higgins would have the room to himself for those 30 minutes in order to avoid conflicts. The other room in the basement of the South Side school is used by the kindergarten and has the kindergarten office. They are semi-basement rooms on that floor. It is not really a full basement. The room is equipped with chairs and has full windows. I suppose artificial light is used there. They have the fixtures. When these religious education classes use the class rooms anywhere they use the same desks that the other students use, the same blackboards when they use a blackboard. We do not equip these desks with ink or ink wells. The child brings his own writing materials.

Redirect examination.

By Mr. Rall:

If by order of court or otherwise the teaching of religious education in the junior high school building was discontinued there would be no change in the form of the schedule or in the manner that we have used it, having it signed in the home and returned to the teacher, or the manner the [fol. 310] teacher handed it to the principal, or in the manner the principal stored it among the records as a registration slip.

Redirect examination.

By Mr. Franklin:

The board does not prescribe the number of hours that I must devote to school administration or the time I arrive at or leave the office. I make it a practice to answer on school stationery all reasonable correspondence that comes to me. That is a part of administering and maintaining public relations. As a school administrator I believe it would be very inconvenient and impractical to release children from the school in Champaign for the purpose of their going for religious education to church buildings. Because of the distance it would be impracticable in some cases, and would expose the children to danger, because the schools which are located in the north, northwest and southwest parts of our city are quite a distance from churches. It would mean traveling 10 or 15 blocks across busy traffic streets. We have a pedestrian hazard in the City of Champaign.

Recross-examination.

By Mr. Chapman:

If they were sent to the churches there might have to be somebody in charge. I imagine somebody would have to see that they went to the churches and did not go home or play along the way. These children are under the supervision of the teacher from the time they are in school until they are dismissed. I think we could send them to a church without a teacher supervisor in going and coming. If we released the children at 9:30 in the morning to go to a church

two miles away and he came back at 11:30 he would not have to be under the teacher's supervision from the time [fol. 311] he left school until he got back. I do not think the school could assume such responsibility. That would be up to the children. I don't think we would have much jurisdiction over them if we released them for religious education and they were free to go where they pleased. We would lose jurisdiction over that hour. It makes it much more convenient to keep them under our supervision. Where they stay and take religious education in the school we do not leave them out or allow them to play during that hour if they have their parents' permission to take religious education.

Q. The fact that the teacher just turns the class loose when the religious education teacher comes in the room, that would not be more convenient than sending the children out of the room or out to play, would it not?

Mr. Franklin: Objection.
The Court: Sustained.

Q. Is not it also a fact that it is more convenient to have them attend the religious education classes if you have them right in the school where they do not have to empty out the seat to get away?

Mr. Franklin: Objection.
The Court: Sustained.

CAROL RIDENOUR, called as a witness in behalf of intervenors and defendant, having been duly sworn, testified as follows:

Direct examination.

By Mr. Franklin:

My name is Carol Ridenour; 1515 West Church, Champaign. I am 11 years old. I have lived in Champaign [fol. 312] almost a year. I started Dr. Howard School in October of last year, Mrs. Taylor's 5th grade. James Terry McCollum was in that class during the last year from October on. At no time did I hear Mrs. Taylor urge any of the children in the class to take religious education. I never heard her say she would like to have the class 100%

in the religious education class. I heard her use the expression 100% in connection with war stamps and war bonds and things like that. She wanted 100% in war bonds and stamps as a matter of pride with the class. I never heard the boys or girls in my class tease James about taking religious education work. I never heard them say anything to him about not taking religious education work. I never heard any of the children about the school tease or make fun of him about his failure to take part in the religious education classes. I never heard him called an atheist by anyone. I never heard the word around the school at all. I know now what the word means, I read it in the paper. I know what it is to be embarrassed. I do not think I ever saw James embarrassed about the school or the school room or the school premises with reference to any matter of religion. I do not know of any of the children having been embarrassed about it in any way. I never heard the subject of religious belief or the difference between children's religious beliefs ever discussed around the school room or the school premises.

I missed some school after I started in the fall. I don't remember how much, I do not think it was as much as a week. I got along all right in school and passed into the next class. I was not sick at all during the year.

[fol. 313] Cross-examination.

By Mr. Chapman:

I took the course in religious education. I attended all year. I had enrolled when I came to school in October. James did not sit near me in school; I was on the opposite side of the room from him. I don't remember how many were sitting between us. I sat nearer to the corridor. I did not become too well acquainted with him last year, I usually played with the girls. I don't remember if he played mostly with the boys. I saw him at recess. The teacher played with us in the playground outside. None of the children ever went away to play alone. In the afternoon the children played together at recess in the morning, the girls played together and the boys played together. We did not play indoors. On bad days we do not have recess. We had deep snow last year. I never heard Mrs. Taylor and James talking with each other. I did not watch to see what became of him all the time. I

was not especially interested in him any more than the rest of the children. I do not know if he was teased when I was not around or if he was called atheist when I was not around, or if he was embarrassed at any time when I was not around.

Q. You do not know if the religious beliefs were discussed at any time when you were not around?

Mr. Franklin: It is elementary she could not know those things.

The Court: Objection sustained.

[fol. 314] Helen Benefiel, called as a witness on behalf of intervenors and defendant, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Franklin:

My name is Helen Benefiel; 702 West Columbia Avenue. I am 13 years old and am in 9th grade. I have gone to the public school system in Champaign regularly since I started in school. I went to Dr. Howard School and junior high school. The religious education classes have been offered in all of the schools that I have attended during the last four or five years. I have not been participating in them.

When I was in grade school those in religious education went out to another room and I stayed where I was. I did not ever feel embarrassed as a result of the religious education class being in the school or my not participating in them when others did. No one ever exposed me to shame, hatred or contempt as a result of it. No one ever mentioned it to me or quizzed me or asked me why I did not take part in these classes. My public school teacher never urged me or tried to get me to take the work. I never felt that my religious difference if any was being pointed out by my not taking part in these classes. With me it was just like any other elective subject whether I participated in the work or not.

Cross-examination.

By Mr. Chapman:

I attend the First Methodist Church in Champaign. I do not know of any differences in my religion and that of Mrs. Taylor. So far as I know my religion is not much different from most of them. I do not know whether James [fol. 315] Terry was embarrassed at any time or not. I was not in his room. I was not in the Dr. Howard School at any time that has been referred to.

My teacher last year was Mrs. Sampson in the 8th grade of Champaign junior high school. When I was in the 6th grade in the Dr. Howard school the religious education class was there. I think about ¾ in my class did not take the course at that time. Those who did take it left the room. I was one who stayed. I do not know where they went, I never checked up on them. I am not taking any religious education class in junior high school.

Alice Allen, called as a witness on behalf of intervenors and defendant, having been duly sworn, testified as follows:

Direct examination.

By Mr. Franklin:

My name is Alice Allen; 1501 West University, Champaign. I am in 10th grade. Before going to junior high school I attended Dr. Howard School. I did not take religious education. Just a few of my friends took it. The fact that they took the course and that I did not take it did not affect their attitude toward me or my attitude toward them. It did not make me feel that as a result of my not taking the course any religious difference was manifested or emphasized or pointed out between myself and them. No one ever questioned me as to why I did not take the course or ever urged me to take the course. I never felt that I was under any compulsion, force or coercion to take the course.

[fol. 316] I attended the Dr. Howard School 4 years ago, in 1941. I was 11 years old when religious education first began to be taught in the Dr. Howard School, in the 6th grade. I don't remember how many from my class took

the religious education, not very many. These who took it left the room and went to the library. Most of us stayed and went ahead with our other work.

I do not know of any religious differences that I have. I am affiliated with the First Prebyterian Church. Most of the students in my class agree with me pretty much in religion. Most of my friends in that school did not take it.

Redirect examination.

By Mr. Franklin:

I do not take any in junior high school. Not a great number of my friends take it in junior high school, but more than did in 6th grade. I do not have any feeling of embarrassment about the fact that I do not take religious education in junior high school. I do not believe that matters of religion or religious differences were ever discussed when I was in the 6th grade or in junior high school.

JANET HOLLINGSWORTH, called as a witness on behalf of intervenors and defendant, having been duly sworn, testified as follows:

Direct examination.

By Mr. Franklin.

My name is Janet Hollingsworth, 403 South New, Champaign. I am 13 years old and am in the 9th grade in junior high school. Before that I went to South Side School. [fol. 317] That had religious education classes in my grade at South Side. I took it and then dropped out of the course. While I was at the South Side School in the courses I never felt any embarrassment as a result of participating or not participating in the classes. The children did not question me as to why I took the courses or why I did not take them. Neither the teachers nor my classmates ever urged me to take the courses. They did not attempt to coerce or force me in any way to participate. I did not feel that I should take the courses because other people wanted me to or anything of the sort. I did not feel any embarrassment at any time about not taking part in the class. I did not take the classes in junior high

school. I did not feel that I was under any compulsion whatever to participate. No one urged me to take the courses. I was not embarrassed as a result of not taking them. I never heard anyone who did not take the course discussed by other children for not taking them or about why they did not take them.

I have friends at South Side and junior high school who did take the course when I was not taking it. That did not affect our friendship at all.

Cross-examination.

By Mr. Chapman:

I did not form any particular friendships in that room during the time that I took the course. I knew about 5 in that grade. It did not make any better friends with any of them, I still had friends. It did not affect my friendships at all.

It has been 3 years since I was in the South Side grammar school. I was about 11 years old the last time I was there. [fol. 318] I was in 6th grade then. I am not acquainted with any of the teachers in South Side. When I was in the 6th grade there were quite a few who took religious education in my class when it started, I think about ½ of them. There were between 35 and 40 pupils in my class at that time. The ones that did not take religious education went out of the class room. We went downstairs to another room. During those times we worked on our board work or on studies. At first I took the course. When I took it I stayed in the class room. I did not have to make up any time that I spent taking religious education.

Patricia Hazelton, called as a witness on behalf of intervenors and defendant, having been first duly sworn, testified as follows:

Direst examination.

By Mr. Franklin:

My name is Patricia Hazelton, 1204 W. Church. I am 15 years old. I attended 6th grade in Dr. Howard School and I went to junior high school. I have not attended the course in religious education either in 6th grade at Dr. Howard

School or during junior high school. During that time I have no memory of the other pupils in my class. I have been friends with most of them. The fact that I did not participate with others in the religious education classes at Dr. Howard School in the 6th grade did not affect my attitude toward any of the other members of the class or their attitude toward me an any way. It did not result in anyone questioning me about why I did not participate. No one inquired of me what my religion was, that stopped me from going into those classes. I was at no time urged by my regular public school teacher to participate in the classes.

[fol. 319] At junior high school I had friends who took the class and friends who did not. None of them expressed to me any curiosity about why I did not take the course. No one sought to force me or urge me to take the class in junior high school. I never heard anyone discuss why they did not take the courses.

My own attitude is that I am not embarrassed in any way to be attending a public school where some people take religious education courses and some do not.

Cross-examination.

By Mr. Chapman:

I am not embarrassed at all. I did not explain to my teacher why I did not take the course. We were asked to register if we wanted to take and I did not register. Nothing more was said about it. That was in 6th grade. My 6th grade teacher gave me a card. I took the card home. My parents said I was not to take the course but they signed it and I took it back. I gave it to my 6th grade teacher, I think. I don't remember if the card said what church I belonged to. When I was in 6th grade that was the first year the course was given and just a few were taking it. Those that took it left the room and went to the library. When they got up to leave I did not look up to see who was leaving, I never paid any attention. I noticed when anybody left, went out of the room, but I did not pay particular attention. It was the same way as I would go into a room. I saw they would go out of the room. When they came into the room I noticed. I knew where they had been. I have no religious differences or traits that are different from those of other children.

[fol. 320] JOHN RUSSELL, called as a witness on behalf of intervenors and defendant, having been duly sworn, testified as follows:

Direct examination.

By Mr. Franklin:

My name is John Russell, 1218 West Park, Champaign. I am 12 years old. Last year I was in the 5th grade at Dr. Howard School, the same grade with James Terry McCollum. The grade is divided into two classes; I was in the opposite class. I knew him from seeing him around the school and playing with him. I did not take the religious courses. About 5 or 6 in my part of the class did not take them. Altogether there were about 25 or 26 in the classroom, so that about 22 took the course and 5 did not. Those who took the course included some of my friends. It did not make any difference in their friendship for me or mine for them because they took the course and I did not. I did not feel embarrassed in any way about it. My teacher did not try to urge me to take the religious education. I feel perfectly free not to take it. I never saw anyone tease or kid Terry McCollum about not taking the course or about his religious belief. I never heard the word atheist before this case started, and never heard it applied to James Terry McCollum by anyone. I did not pay any attention to how he got along with the other boys.

Cross-examination.

By Mr. Chapman:

I do not know how old he is. I think I am bigger than he is. I was not in Mrs. Taylor's class last year, I was in Miss Johnson's. I was one of the 5 or 6 who did not take the [fol. 321] course. The others were Billy Bush, Billy Sholom and Robert Mower. We who did not take the course went to the library with the teacher. There we studied our work and had weekly readers to read. Miss Chapin taught religious education in Miss Johnson's room last year. I did not pay much attention to James last year.

MARY LOU TERRY, called as a witness on behalf of intervenors and defendant, having been duly sworn, testified as follows:

Direct examination.

By Mr. Franklin:

My name is Mary Lou Terry, 1215 West Park, Champaign. I am 14 years old, in the 9th grade in Champaign junior high. Before that I went to Dr. Howard school. I was in Dr. Howard school when the religious education classes were being offered there. I did not take the course either there or in junior high. Some of my friends took the courses, some did not.

Q. Did the fact that you did or did not take the courses have any effect or affect in any way the attitude of other people toward you?

A. No.

Mr. Chapman: Objection as calling for her conclusion.

The Court: Overruled.

The Witness (Continuing:) It did not affect my friendship in any way with the girls or boys who took the classes or with those who did not. I did not feel that I was under any compulsion to take the course. No one ever urged me to take it. In junior high school some of my friends took the courses. It did not seem to affect the regard which they had for me in any way because I did not take the course. I [fol. 322] never heard religion discussed around the school, the school rooms or the school buildings, among the children. No one ever inquired what my religion was or why I did not take the courses. I was at no time embarrasssed in any way as the result of religious education classes being held in the public school buildings.

Cross-examination.

By Mr. Chapman:

Nobody talked to me about religious education. The teacher did not mention it in class. In junior high the teacher did not pass cards out to take home. I can't remember whether they were passed out in 6th grade in Dr. Howard school. Not very many in the class in Dr. Howard

school took the course. In junior high about half of my friends took the course.

I go to the Presbyterian church but I do not belong. I do not know why I did not take the course in the 6th grade. My mother just did not want me to join the class because I went to the Sunday school. I guess she thought that was enough.

BARBARA BECKER, called as a witness on behalf of intervenors and defendant, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Franklin:

My name is Barbara Becker, 704 W. Green, Champaign. I am 14 years old and am in 9th grade. I have been in the public school system here for 4 or 5 years. Before junior high I went to South Side school. There they had religious education classes in the 6th grade. About half of the class took the course. I did not take it at all during the 6th grade. [fol. 323] I have friends who did. That did not have any effect at all on my friendship with those who did take the courses. At no time during the 6th grade did I feel any compulsion to take the course. My teacher never urged me to take it. I never heard discussed among the children the question of why one took the course and why another did not. The matter of religious difference was never raised in my mind as a result of religious education courses.

I did not take the courses in junior high. There was no embarrassment there as a result. There was no difference in my mind between electing not to take religious education and electing not to take band or glee club.

Cross-examination.

By Mr. Chapman:

The subjects that we can elect are orchestra, glee club and religious education. I was more interested in orchestra than religious education because I got my religious education in Sunday school. I can sing, but not very well. We had 3 choices but were not required to take any of them. We could have taken one or 2 of the 3. I don't know if we

could have taken all 3. It depended upon your schedule. Religious education was one of the elective courses.

I have quite a number of friends in school and have always had. I have been rather active in extra-curricular activities. I do not belong to any societies or organizations, no debating clubs or dramatic club outside of school. In school we have the Retro Club, that is our school book. Everybody could get on if they feel like it. It takes some extra work. I imagine you have to be pretty good in your studies before you can get on something of that kind. You [fol. 324] would not have to be of the highest grade to get on there, if you get about 4 points you could belong on the staff.

In the 6th grade I was in the class of Miss Reloff, our principal. I believe Miss Chapin handed cards about religious education to Miss Reloff and she passed them out. She told us we were to take them home for our parents to sign if we wanted to take religious education. I took mine home and brought it back and placed it on my teacher's desk as did the other students.

I do not belong to a church but I attend the First Methodist Church. I have not found the religious ideas of most of the other children very much different from mine. Religious matters were not brought out during school time. Most of my friends have about the same religious ideas as I do.

Mary Russell, called as a witness on behalf of intervenors and defendant, having been duly sworn, testified as follows:

Direct examination:

By Mr. Franklin:

My name is Mary Russell, 1218 West Park, Champaign. I am 14 years old and am in the 9th grade. I have been in the public school system of Champaign all my life. I went to Dr. Howard school before junior high. When I was there they conducted religious education classes. I did not attend them while I was in Dr. Howard school or when I went to junior high school. My non-participation in these classes did not result in any embarrassment to me. I have friends among those who took the courses. I did not feel any different toward them when I found they were taking the

course and I was not. That did not break up any friend-[fol. 325] ship and did not seem to affect my attitude toward them or theirs toward me. I did not hear the matter of religion discussed in connection with why some persons did not take the course and others did. I never heard any people in s hool criticized for taking the course or not taking the course. My public school teacher did not urge me to register in religious education. I did not feel any compulsion whatever brought upon me to participate in junior high school. I have friends who take the courses. It made no difference to me or to them that I did not take them. I never felt any embarrassment there.

Cross-examination.

By Mr. Chapman:

My religious ideas were not different from that of most of my friends. I attend the First Presbyterian Church. My religious ideas are about the same as most of the people of these classes.

I have known Barbara Becker for about 4 years. We attend junior high school. I have taken glee club as an elective there. I am in the same glee club Barbara is in. I do not know how many elective studies you may take in junior high. It depends on how your schedule is arranged.

Bessie Taylor, heretofore called as a witness on behalf of relator, having been previously sworn, was called as a witness on behalf of the intervenors and defendant, and testified as follows:

Direct examination.

By Mr. Franklin:

I am the same Bessie Taylor who testified before. I was James Terry McCollum's teacher during the 5th grade at Dr. Howard school last year. During the last half year [fol. 326] when he was the only one not taking the course, when the religious education class met, James left the room. He went into the music room for a part of the time that semester, for about 2 months he went into the other 5th grade room. The 5th grade youngsters were divided into

2 groups. During the last 2 months approximately of the last half of this year when the religious education class met in my room he went to the other class. Before that he took his work into the music room. He worked in there on whatever he needed to work on. I was in and out of the room supervising, to see how he was getting along during the period. Ordinarily I would have asked Miss Johnson, the other 5th grade teacher, to take care of the children I sent in there, but James was a problem in the room. I did not want to send him in there and cause her difficulties, cause confusion. I was afraid he would have an effect on the other children because he caused confusion in our room. Another reason I did not send him in was that it was very hard for him to keep his mind on his work. He had very poor working habits. Other children seemed to attract his attention until he just did not bother or he did not study his lessons much at all. I felt that to keep him in the music room would benefit him, that he would perhaps catch up and keep up a little bit on the many things in which he was behind. When he was alone he came back from the period with the work finished, as a rule. I usually kept the door closed because I felt if anyone walked back and forth James would be looking out and watching because that is all he ever did when anyone was walking around. The period was only a half hour and I would check up on him perhaps every [fol. 327] 10 minutes. He never mentioned that it bothered him when the door was closed. I had no idea of it until Mrs. McCollum told me about it. After that the very next time the religious education class met I put him in the other class.

The occasion when he was placed in the hall at the desk was when the music supervisor was in the building at the time and using the music room. There had been a vacant desk out in the corridor. I asked James if it was all right if he sat out there and he did not seem to have any fault with it so I turned on the light and allowed him to take his things there. I did not realize that he was feeling not taking the religious education so seriously, that any little movement from the children would be construed as making fun of him or I would never have put him there. I never did it again.

From my observation of the children the fact of his not taking religious education did not result in any embarrassment whatever. I never heard any discussion of religious education. I did not at any time urge the class to sign up

to take religious education in order to make the class 100%. It was a personal choice with them and their parents concerning which I had nothing to say except to hand out cards and tell them what to do with them. I never said anything about 100% in connection with religious education. I never privately told Elwin Miller and James Terry McCollum to join the class in order to make it 100%.

I knew why Elwin was not taking religious education. I suggested that he not take it the first semester. It was not because of any religious difference between Elwin and [fol. 328] other children; he had taken it before he came to the Dr. Howard school. He did not take it the first semester because he was a little weak in arithmetic and he was interested in doing his best towards making good grades. He needed to use his time in reviewing things in which he felt weak. The time he would otherwise have been taking religious education he worked on multiplication tables and problems which helped him in that respect.

I did not in any private conversation with James Terry McCollum suggest that he join the religious education class in order to make the room 100%. I knew his parents' ideas on the matter and I certainly would not have urged him to take it when I knew they did not approve.

I used the words 100% to the class in connection with the buying of defense stamps.

Cross-examination.

By Mr. Chapman:

I have not looked into Terry's religious views. I think he is a little young to really know himself. I only know his mother's views from what I heard her say. She told me on one occasion she did not approve of religious education classes, that she did not believe it should be brought into the school. She never told me at any time that she did not believe in the things being taught.

I am a member of the United Brethren Church. They do not have a church in Champaign. There is one in Chesterville. I have no scruples against religious education in the schools. I do not see anything wrong with it so far. I do not know whether Elwin Miller had any religious differences or religious characteristics that would differ from [fol. 329] most of the people. I do not know with which church he was affiliated. Nobody ever pointed out anything

about his religious differences or the difference between the Presbyterians and Catholics, and so forth.

During the last two months I sent James to the other 5th grade, Miss Johnson. When he was there I did not check on him at all. I checked on his work when he came back. Miss Johnson may have had recitations in her class while he was there. The children paid no more attention to him than they did to other children in the class. They were so interested in getting ready for their religious education classes they would not have noticed any walking around. When children leave the room the others would be probably conscious that someone is walking around. When somebody comes in the door people frequently look to see who it is. When James went there was no class in session, it was between classes. Students were in the room at their desks and when he entered Miss Johnson's room there were students at the desks there and they were there when he left. I never sent him into Miss Johnson's room until his mother requested it. I knew that other children attracted James very much. I can't say that he liked to be with other children. I think perhaps he was trying to attract their attention to make friends with him, but it did not work out that way.

The day that he was put out into the hall I knew that occasionally a child would walk up and down the hall. It did not enter my mind at the time that he would be seen sitting there because I did not know how James felt. I didn't put him out there to be a public exhibition. I was not thinking about putting him in solitary confinement when [fol. 330] I put him in the music room alone. I was doing the thing I thought was best for him at the time. While he was in the music room I did not time myself every 10 minutes, but I was in and out of the room and I knew what he was doing. While he was in Miss Johnson's room he had the comfort and benefit of the society of the other children.

Q. That was about the only way her room differed from the music room?

Mr. Franklin: Objection.

The Court: Sustained.

The Witness (Continuing): While he was in Miss Johnson's room he understood that he had to conduct himself

properly. The principal reason I sent him in there was becauses his mother wanted me to, since I had learned that he seemed to be concerned when he was in a room alone.

Rev. Herbert L. Miller, a witness heretofore called on behalf of relator, having been previously sworn, was called as a witness on behalf of intervenors and defendant and testified as follows:

Direct examination.

By Mr. Franklin:

I have the enrollment figures in the religious education courses for the past year. In the junior high school in 1944 and 1945 there were 134 children registered in the religious education classes. There were several hundred students in junior high school, in excess of 800. Last year in the 6th grade through the district there were 249 enrolled in the religious education classes. The total enrollment in the 6th grade is 295. In the 5th grade in the [fol. 331] religious education class there were 206 out of a total enrollment of 286. In the 4th grade 196 out of a total enrollment of 298.

Cross-examination.

By Mr. Chapman:

It has never come to my attention that some of the schools in Champaign have only colored children. I have never visited one of these colored schools. I have passed one of these colored schools during my work. I have visited the other grade schools. I have three children in junior high school. Those three did not take religious education. I did not sign a card.

Redirect examination.

By Mr. Franklin:

They did not refrain from participating because of any religious difference between them and those who did take the classes.

Recross-examination.

By Mr. Chapman:

My children may believe what or whoever they want to; they may go to anything that is right and proper. I wanted them to choose whether they want religious education or not because I wanted them to have free choice in their own church. Two of them chose to take it; one does not.

There are not very many people of the same faith as mine in Champaign. The congregation of my church numbers 365. There is also a student's church in the city with the same belief as mine.

Q. I believe you said there were not any great religious differences between the beliefs of your child and those of most other people; is that right?

Mr. Franklin: Objection.
The Court: Sustained.

[fol. 332] The Witness (Continuing): The one child has not stayed out on account of religious differences, she just does not care to take it. I presume she is too busy.

James Ridenour, called as a witness on behalf of intervenors and defendant, having been duly sworn, testified as follows:

Direct examination.

By Mr. Franklin:

My name is James Ridenour, 1515 West Church. I am in 8th grade. I am 13 years old. I have not been taking the religious education courses. I am now in Junior high school. I came to Champaign about a year ago, knowing only the Campbells here, one family. The fact that some children took the work in junior high school and some did not, did not interfere with my making friends there. I have been allowed to make friends among those who took the course just as well as among those who do not take the course. No one inquired why I did not take the courses. It is not because of any religious difference between me

and the other children here that I do not take the courses, I just choose not to. No one makes any fun of me. I have not felt embarrassed.

Cross-examination.

By Mr. Chapman:

I belong to the First Methodist Church of Champaign. I do not know of any other people who have different religious beliefs or a religion that is very much different from mine.

[fol. 233] VIDER M. MCCLELLAND, called as a witness on behalf of intervenors and defendant, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Franklin:

My name is Vider M. McClelland, 508 W. Charles, Champaign. I know James Terry McCollum. He was a classmate from the 1st to the 4th grades at South Side. When he was attending school and we were in the 4th grade, religious education classes were offered. I do not remember that he took the course, I did not. I think 4 or 5 of us in 4th grade did not take it. When the other children were taking the course we went to the science room and were given science books to read. We went there in a group, including James. We were under the supervision of a teacher. If I had wanted to take the religious education classes I could have. It was my decision not to. It was not because I had any different religious belief than the children who did take the course, I did not think it would be interesting. I did not feel any embarrassment by not taking these courses. I did not feel that my religious difference, if any, was pointed out by not taking the course. No one ever inquired of me as to why I did not take the course. My teacher never asked or urged me to take them.

I had an opportunity to observe James Terry McCollum in the classroom and the playground. I never heard anyone tease James about his not taking the course or ask him why he did not take the class.

Q. Do you know of any occasion when James was embarrassed in any way as a result of not taking the class?

Mr. Chapman: Objection.
The Court: He may answer.

A. No, sir.

[fol. 334] Cross-examination.

By Mr. Chapman:

I do not know of any times he was embarrassed. I did not keep track of him especially. I did not take any special interest in him. I am 10 years old. We were in the same class, I usually sat 2 or 3 aisles from him. I did not play with him quite a bit, I usually played with the other boys. From 1st grade to 4th grade you usually get quite well acquainted, I knew him pretty well. He never spoke of his religious beliefs.

I do not have a membership in any church. I go to the Christian and the Presbyterian and the Methodist. I am not decided. No one said anything to me about being an atheist when I did not take the course.

Redirect examination.

By Mr. Franklin:

I never heard the word atheist around the school at all before this case came up.

Recross-examination.

By Mr. Chapman:

I do not hear all the words that have been used around the school. I heard the word here this afternoon.

BERGEN PARKHILL, called as a witness on behalf of intervenors and defendant, having been first duly sworn, testified as follows:

Direct examination.

By Mr. Franklin:

My name is Bergen Parkhill, 1203 West Williams. I am 11 years old. I go to South Side School. I am in 6th grade, the same as James Terry. I have known him since 3d grade. I did not take religious education in the 4th grade. When the other children were taking religious education I left the room to study. I went to the recess room, which is [fol. 335] just above the hallway; just chairs and a telephone. The room is used by teachers.

There were 4 or 5 who did not take religious education, including James Terry. No one questioned me about why I did not take religious education that year; no one tried to tease or kid me about it; no one asked what religion I believed in or did not believe in. I did not take the courses because my mother thought I knew more from study in my kind of Sunday school every Sunday. My not taking part in these classes did not cause me any embarrassment.

Cross-examination.

By Mr. Chapman:

My not taking it gave me more time to do other work. If I had any checking up, like arithmetic, I got a chance to get it done. I could use this half hour to catch up, so I saved half an hour that way. I am taking religious education now, not because I do not feel that I need so much time for my other work now. I do not believe James Terry took it during the last half of the 6th grade, either.

When I went to the rest room the 4th grade teacher went with me. Miss Chapin took her class while she was not there. The rest room had desks, a table, davenport, chairs and tables. There were not enough chairs for all of us. There were two desk chairs and two rocking chairs, and you could sit on the davenport. The teacher took one rocking chair and that left enough chairs for the rest of us. Some had to sit on the davenport.

While we were sitting, those that had to sit on the davenport did not have a desk. They wrote on the tablets or their books and read.

When I did not take religious education courses no other boys teased me about it. I go to the Presbyterian church. [fol. 336] Most of my friends have religious ideas about the same as mine. Most of the people I know in school do.

Redirect examination.

By Mr. Franklin:

They do not talk about religion and religious beliefs around the school. I did not have occasion to tell anyone around the school that I was a Presbyterian. I had no occasion to ask James Terry what he was. I do not know whether or not his religious beliefs are different from mine, just what I have heard here in court.

Recross-examination.

By Mr. Chapman:

I have good Presbyterian friends who did not attend the same school. I have Methodist friends and Baptist friends. I do not believe any are Unitarians that I know of. I believe some believe in the Christian church.

PETER LANDRUM, called as a witness on behalf of intervenors and defendant, having been duly sworn, testified as follows:

Direct examination.

By Mr. Franklin:

My name is Peter Landrum, 1014 West Charles. I am 11 years old, in 6th grade at South Side School. I know James Terry McCollum. He has been in my class in 4th and 5th grade. I did not take religious education in 4th grade. James Terry McCollum did not. Those of us who did not take the religious education class went to the rest room while the others were taking the class. James Terry went with us. I did not feel any different toward the people who took the religious education classes than if they had not taken them. I had friends among those who took the [fol. 337] courses. I did not lose any friends as a result of them. I never felt bothered or embarrassed because some

took the course and some did not. I felt that I was taken care of while the others took the courses. No one ever asked me why I did not take the courses nor what my church was or my religious beliefs. I first heard the word atheist when this trial came on; I did not hear it around the school. I did not hear them call James names or anything about his religion. I did not know at school when I was in 4th grade that James did not believe in God; we did not talk about it at all.

Cross-examination.

By Mr. Chapman:

I attend the Methodist church. At school I have Methodist friends and Protestant friends, and some who are members of the Christian church. I have an atheist friend, Terry.

I heard Bergen Parkhill describe the rest room. It was true. I had a desk in my regular room but not in the rest room.

ELWIN EUGENE MILLER, called as a witness on behalf of intervenors and defendant, having been duly sworn, testified as follows:

Direct examination.

By Mr. Franklin:

My name is Elwin Eugene Miller, 1019 West White. I am 11 years old and have been at Dr. Howard's School 2 years. I started at the beginning of 5th grade. I was new in the school then. That was the same grade as James Terry McCollum was in. I was in his class and met him about that time. I did not know him before that.

I did not take the course in religious education that first [fol. 338] semester. James McCollum did not, either. We were the only 2 not taking it the first half of this year. One boy asked me why I wasn't in there and I said, "I will take —this end of the semester." That is all I said. That is all that was said about it by anyone. I don't remember Mrs. Taylor ever saying she would like her class to be 100% in religious education or anything like that. She never told me and James Terry McCollum while we were together

that she wished would both take religious education so it would be 100%. I never saw or heard any of the boys make fun of James in any way for not taking religious education. I don't know if they ever asked him why he did not take it or bother him in any way.

I made some friends in that first half of the year in the class and got acquainted with all the other children in the class. I did not seem to have difficulty making friends. No one seemed to hold it against me that I was not taking religious education. When the rest of the children were taking religious education we went into the music room and studied. I managed to keep pretty busy during that time. I got along with my work all right. I did not feel that I caught up with my arithmetic the first half of the year. I caught up during the rest of the year. The second half of the year I took the religious education class. It did not interfere with my school work, I was able to keep up.

Cross-examination.

By Mr. Chapman:

I was a little behind with my work when I first started in and for that reason I did not take religious education. But having this half hour to study other subjects it gave me a chance to catch up. I don't remember Mrs. Taylor saying I could take religious education as soon as I caught [fol. 339] up. I did not tell her that I would take it when I got caught up. My parents did not sign the card when it was sent out. I took it home and carried it back unsigned. My parents knew I was a little behind to start with. I did not want them to sign because I thought that I could not. I used my own mind about that. I did not have any kind of religion that was very much different from most of the children. I go to the Baptist church. There are others in that class that are friends of mine that go to the Baptist church. I don't know if any of my friends in that class are Presbyterians; some are Methodist. I don't know if any of my friends are members of the Christian Church. None go to the Lutheran or the Episcopalian Church. I don't know if any are atheists.

I knew 2 or 3 days ago that I was going to testify. Mr. Franklin called on the telephone. I didn't talk to him. My mother spoke to me about coming over. She did not tell me what I was going to testify about. She told me what

kind of a case it was. She said it was about God. I did not talk to anybody else about it after that. I talked to Mr. Franklin about it yesterday, not today. I have not been here very long today, just came in a few minutes ago. I was in school this morning and afternoon.

I am now in the Dr. Howard school, in the 6th grade. I signed up for religious education this year. My teacher is Mrs. Kincaid. I do not know what church she belongs to.

Redirect examination.

By Mr. Franklin:

I never felt embarrassed as a result of these religious education classes while in school. I did not find it any easier to make friends with the other children when I took [fol. 340] religious education than when I did not. I made friends with all of them before I got around to the religious education classes. The children never discussed around the school or in the classroom or anywhere else on the premises the religions the various children had.

I first heard the word atheist when this case began, never around the schools. I never heard anyone call James Terry McCollum an atheist. I never heard anyone discuss his beliefs one way or the other. I never heard anyone say, "James Terry McCollum does not believe in God," or anything like that.

Recross-examination.

By Mr. Chapman:

I have about the same religious ideas as the other children in my class. I don't know that I have about the same religious ideas that Terry has.

(Whereupon Defendant's Exhibit 301 was offered and received in evidence without objection.)

Relator's Exhibit 3, Defendant's Exhibit 301, being a receipt dated June 12, 1945, signed by J. A. Burke, township treasurer, for $627.28 from Carrie Busey, including an item "Miss Chapin, religious inst. $1.05."

Whereupon defendant rested.

Whereupon Intervenors rested.

Whereupon the Relator offered the following additional evidence in rebuttal:

[fol. 341] EUGENE HARVEY MELLON, having been previously sworn, called as a witness on behalf of relator in rebuttal, testified as follows:

Direct examination.

By Mr. Chapman:

I testified that as far as I knew at the Dr. Howard School the religious education teacher did most of the teaching in that building in one day; I did not know her schedule. I did say it was between 9 o'clock in the morning and 5 in the afternoon. I think each day she went to a different school.

Q. How many grade schools are there in Champaign?

Mr. Franklin: Objection as not proper rebuttal.

The Court: I am inclined to think you are right but I will hear it.

The Witness (Continuing): There are 10 grade schools. As far as I know the teaching in all grades is between the hours of 9 in the morning and 5 in the afternoon.

Whereupon the Relator rested.

RENEWAL OF MOTION TO DISMISS

Mr. Franklin: We renew our motion to dismiss the complaint heretofore filed at the conclusion of the plaintiff's case.

The Court: We will take the motion with the case. The same ruling applies to the intervenors.

Argument by Mr. Chapman on behalf of Relator.

Date set for submitting briefs.

Statement by the court, not abstracted.

Opinion of the court, and decision. (Not abstracted; appears *ante*, pp. 76-115.)

Certificate of court reporter.

[fol. 342] Certificate of court to report of proceedings, dated March 26, 1946.

Certificate of clerk of Circuit Court that the foregoing is a full, true and correct transcript of record, dated April 1, 1946.

Respectfully submitted, Milton T. Raynor, Attorney for Appellant.

Walter F. Dodd, Of Counsel.

[fol. 343] IN SUPREME COURT OF ILLINOIS

Docket No. 29678—Agenda 27—November, 1946

THE PEOPLE ex rel. VASHTI McCOLLUM, Appellant,

v.

BOARD OF EDUCATION OF SCHOOL DISTRICT No. 71, Appellee

OPINION—January 22, 1947

Mr. Justice Thompson delivered the opinion of the court:

This is an appeal from a judgment of the circuit court of Champaign county denying a writ of *mandamus* as petitioned for by Vashti McCollum, the relator and plaintiff, a resident and taxpayer in Champaign School District No. 71, who seeks to prohibit the teaching of religious education in the public schools during the hours when the public schools are regularly in session. The defendant school district includes all of the schools and school buildings in the city of Champaign. Special motions to quash the summons and dismiss the petition on limited appearance of the defendant were overruled. Answer being filed, and after intervening petitions and reply thereto, the cause by agreement was heard before the three judges of the sixth judicial circuit, sitting *en banc*, for the purpose of determining the disputed questions of fact and law involved in the case.

The record discloses that in the fall of 1940 the Champaign Council of Religious Education, a voluntary association of Jewish, Roman Catholic and Protestant faiths, was formed. They immediately sought and secured from the board of education of Champaign School District No. 71, permission to offer classes in religious education in grades four through nine. Qualified instructors, all materials and books, as well as incidentals, were to be furnished at the expense of the council. Admission to the classes was to be allowed only upon the express written request of parents, and then only to classes designated by the parents. They were to be excused by the board from attendance in the grade schools for thirty minutes and from the junior high school for a period of forty-five minutes in each week for participation in the religious education classes. Classes were to be scheduled so as not to interfere with the regular public-school classes after consultation with the public-school

teacher. Each faith—Catholic, Jewish and Protestant, was to have its separate instructional classes and no expense in connection with the classes was to be borne by the board. Additional groups were to be freely permitted to participate upon the same terms. Lesson materials and curriculum [fol. 344] were to be selected by a committee representative of all groups participating and in a manner to avoid any offensive, doctrinal, dogmatic or sectarian teaching. It is apparent the teaching was to be of the content of the Bible without interpretation or attempt at influencing belief in the doctrines or creeds of any church.

James Terry McCollum, the son of the relator, around whom this controversy centers, entered the fourth grade of the district school in the fall of 1943, and along with five others did not participate in the religious education classes during the first semester. He did, however, participate with his mother's consent during the second semester. In the fall of 1944 he transferred from the South Side School at his mother's request and enrolled in the fifth grade in the Doctor Howard School, and, with one other youngster, Elwin Miller, did not attend the religious education class the first semester. During the second semester he was alone in not participating therein. When other members of his class were attending the religious education classes he continued his regular studies in the music room under the supervision of his regular teacher. On one occasion he was placed at a desk in the hall where apparently he was teased by passing children who thought he was being punished. On complaint of his mother, this practice was promptly and permanently discontinued, as was that of placing him in the music room, when his mother claimed he was a victim of claustrophobia.

The record further discloses that the teachers conducting the religious classes were not teachers in the public schools but were subject to the approval and supervision of the superintendent. The courses in religious education were conducted in the regular teaching rooms in the public-school building, which were temporarily turned over to the religious-education teachers, and the classes were held during the school hours. They covered a period of thirty minutes of each week in the 4th, 5th, and 6th grades and fifty minutes each week in the 7th, 8th, and 9th grades of the junior high school. Cards were distributed to the parents of elementary students by the public-school teachers requesting them to indicate whether they desired their children to receive religi-

ous education. After being filled out, the cards were returned to the teachers of religious education classes either by the public-school teachers or the children. Separate rooms for Catholics, Jews and Protestants were provided [fol. 345] for religious instruction away from those who did not desire to participate.

At the opening of the trial, an intervening petition was filed by Elmer C. Bash and his wife, citizens and taxpayers residing in the school district, alleging that they are the parents of two minor children who attend the district school; that they are members of the University Place Christian Church, located in the community, and that they desire the classes in religious education, complained of by the relator, to continue; and allege that under the first and fourteenth amendments to the constitution of the United States, and under the constitution of the State of Illinois, they have the right to direct the education of their children, and prayed for the dismissal of the relator's petition. No objection was made to the filing of this petition, but the relator filed a reply thereto praying strict proof, and denying that intervenors' children are entitled to attend the classes of religious education and that they have any constitutional rights as alleged in the intervening petition. This petition was not referred to in the trial court because the court was of the opinion that the case could be disposed of on the complaint for *mandamus*, the answer thereto and the evidence heard in regard to the same.

The errors relied upon by the relator for reversal are: (1) The segregation of public-school pupils into sectarian groups for the purpose of instruction in a public school is violative of Federal and State constitutional guaranties of freedom of religion,—the fourteenth amendment to the Federal constitution and section 3 of article II and section 3 of article VIII of the constitution of Illinois. (2) The use of public funds for sectarian education violates section 3 of article II and section 3 of article VIII of the constitution of Illinois, and section 15-14 of the School Code of Illinois. (3) Sectarian teaching of public-school students in public-school buildings during school hours is violative of section 6-43 of the School Code of Illinois. (4) The discretion of an administrative body and officer in this case is violative of section 2 of article II and article III of the constitution of Illinois, and is a violation of the guaranties of due process

of law and equal protection of laws by the fourteenth amendment to the constitution of the United States.

It was defendant's contention that the judgment of the trial court should be affirmed because: (1) The authority of the board of education to release pupils from public-school studies for a period each week in order that they [fol. 346] may take religious studies is established by the recent case of *People ex rel. Latimer* v. *Board of Education*, 394 Ill. 228, 68 N. E. 2d 305. (2) The defendant has the statutory power, subject to the constitutional provisions here involved, to permit the use of schoolrooms for religious education when they are not actually being used for public-school purposes, even though other portions of the building are then being used for public-school classes. (3) No constitutional provision is violated by the facts shown in this record because the plan is voluntary and no one's religious freedom is infringed, and because there is no appropriation, donation or payment of public money in aid of a sectarian purpose. The use of the school building is a mere incidental aid to religion which this court long ago approved. *Nichols* v. *School Directors*, 93 Ill. 61.

It is first contended by relator, on her assignment of errors, that the segregation of public-school pupils into sectarian groups for the purpose of instruction in a public school is violative of Federal and State constitutional guaranties of freedom of religion as provided in the fourteenth amendment to the Federal constitution, and section 3 of article II and section 3 of article VIII of the constitution of Illinois. It is particularly urged that the plan of the school district of providing religious instruction for three groups, —Catholic, Jewish and Protestant,—through distribution of cards or schedules for voluntary registration, with provision of public schoolroom and of school-time periods for such instruction, is obnoxious to the constitutional guaranties; that while the program is voluntary it results in segregation and embarrassment to those not participating, which amounts to interference with their religious freedom.

Relator places great reliance upon the case of *People ex rel. Ring* v. *Board of Education*, 245 Ill. 334, and quotes from page 351: "The exclusion of a pupil from this part of the school exercises in which the rest of the school joins, separates him from his fellows, puts him in a class by himself, deprives him of his equality with the other pupils, subjects him to a religious stigma and places him at a dis-

advantage in the school, which the law never contemplated."

We do not think it necessary, in the consideration of this case, to make an extended analysis of the particular situation as it existed in the *Ring* case, which is plainly dissimilar from the facts as they exist in this case. What was said [fol. 347] there in the majority, as well as in the dissenting opinion, presents a lengthy discourse as to religion, its origin, various forms of worship, the versions of the scripture, and setting forth the historical and literary features of the Bible from the early Hebrew to the present generation. It is there for perusal as the divergent views of the court. Briefly, the facts there reveal three public schools were maintained in District No. 24, Scott County, in accordance with the statute of Illinois. The school opened in the morning with religious exercises which consisted of scripture reading from the King James version of the Bible, repeating of the King James version of the Lord's prayer while standing with bowed heads, and the singing of Protestant hymns. These exercises were conducted by the teacher in opening school and the participation was compulsory. A number of children attending the school were of the Roman Catholic faith and the parents, who were Roman Catholics, contended that the compulsory participation of the pupils deprived them of the freedom of worship guaranteed by the constitution. It can readily be seen that the exercises as conducted there were part of the public-school program carried on while the children participating were in attendance in the public-school classes. The exercises complained of were actually worship services, including the Lord's prayer, the singing of hymns, and the participation in the exercises was compulsory.

In the instant case, the religous education classes are voluntary and are not a part of the public-school program, and pupils are excused from their public-school classes while attending the classes in religious education. The religious education courses do not go to the extent of being worship services and do not include prayers or the singing of hymns. It might be further added that the classes are conducted by teachers employed by the church organization and all expenses in connection therewith are born by such organization. The dissimilarity is easily distinguished.

Many cases from foreign jurisdictions are cited but, in the main, they are dissimiliar, and do not concern a volun-

tary system and are lacking in equality of denominations. The case of *Harfst* v. *Hoegen*, 349 Mo. 808, 163, S. W. 2d 609, 141 A. L. R. 1136, is cited and it is urged it supports the *Ring case*. While it is true some support is suggested with respect to a Catholic service, and the possibilities of a non-Catholic being excused, the case is circumscribed by the Missouri constitution. It was held there, under entirely [fol. 348] different facts, that a parochial school could not be maintained at public expense or that teachers of religion could not be paid from public-school funds. To point out the dissimiliarity of the many cases cited would unnecessarily extend this opinion.

We recently held, in the case of *People ex rel. Latimer* v. *Board of Education*, 394 Ill. 228, that a voluntary program of religious education which permitted the superintendent of schools to excuse public-school children at the request of their parents for one hour each week for the purpose of attending religious education classes at places outside of the school activities or property, did not violate the American principle of separating church and State, and did not violate the first amendment to the constitution of the United States which provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" and did not violate the fourteenth amendment to the same constitution providing that no State shall make or enforce any law which deprives any person of life, liberty or property, without due process of law, or which denies to any person within its jurisdiction the equal protection of the laws. This court there further denied that such action violated a similar section of the Illinois constitution, being section 2 of article II; and further denied there was a violation of sections 1 and 3 of article VIII of the same constitution, which require the General Assembly to provide a thorough and efficient system of free schools and that no public corporation shall make any appropriation, or pay from any public fund whatever, anything in aid of any church or sectarian purpose; and denied the contention of petitioners in reliance upon section 3 of article II, reading as follows: "The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his religious

opinions. * * * No person shall be required to attend or support any ministry or place of worship aga-nst his consent, nor shall any preference be given by law to any religious denomination or mode of worship."

It is apparent the program as adopted in the *Latimer case* was to all intents and purposes exactly the same as that involved in the instant case, excepting only that the classes were held outside of the schoolrooms. As to the classes being held in the schoolrooms, they were not held [fol. 349] in the presence of anyone who did not desire to participate therein, and those remaining were assigned to other rooms and continued with their class studies.

It is contended by appellant in the instant case that, in arranging the classes for religious instruction consisting of Protestants, Catholics and Jews, the readjustment of these groups from room to room is necessarily known to the members and those of each group must know who are members of each other group. The *Ring case* is cited in support of the proposition that the exclusion of a pupil from this part of the school exercises puts him in a class by himself and subjects him to a stigma. We hardly see the difference in this respect as to the situation in the *Latimer case*, above referred to, where groups were excused for one hour each week during the regular school period for the purpose of attending religious education classes at places outside of the school property and thereafter returned to the public-school room. The same might be said there that those remaining were subjected to a stigma. That appellant's son was so subjected is refuted by appellant's own testimony wherein she testified, "As for religious education in the public schools, it would not have a bad effect upon Terry [meaning her son]. I do not know it would bother him one way or the other. I did not know it until in court."

It is next contended the use of public funds for sectarian education violates section 3 of article II and section 3 of article VIII of the constitution, and section 15-14 of the School Code of Illinois. It is pointed out that the question is one as to whether any public funds were expended, or any grant or donation of land, money or other personal property made (1) in the additional use of school buildings for independent religious instruction "while they are being used by students;" (2) in the additional services of public-school teachers and the frequent movement of

students from room to room; or (3) in printing or other expenses involved in the additional function of religious instruction. As to this, we find the classes were held in the schoolrooms during the current school period and the rooms were in use during the entire period, and, no doubt, the same cost for lights, heat, janitor service, etc., would exist whether or not the schoolroom was used at the particular time by this particular class. Any additional wear and tear on the floors would seem to be inconsequential. The trial court unanimously found as facts that there was no direct appropriation of any kind or direct expenditures of [fol. 350] money of any kind for or on behalf of said religious education classes. Any additional wear and tear of furniture due to the religious education classes, so far as the evidence in this case discloses, would be negligible. This, of course, resolved the question of fact against appellant.

The appellant urges this is a question of law as to whether public funds have been used to such an extent as to violate section 3 of article II and section 3 of article VIII of the constitution of Illinois. In the case of *Nichols v. School Directors*, 93 Ill. 61, this court held that permission to hold stated meetings for religious purposes in the schoolhouse did not compel a taxpayer to aid in supporting a house of worship in violation of the above constitutional restraints. As the court there aptly said, "It seems to us a very strained interpretation to attempt to bring the present case within the reach of either one of the above constitutional provisions." The court there further said, "Religion and religious worship are not so placed under the ban of the constitution that they may not be allowed to become the recipient of any incidental benefit whatsoever from the public bodies or authorities of the State." This decision has been cited and followed by this court in a number of cases. It is our judgment the incidental expenses that might occur here are not in violation of the constitutional restraints insisted upon. *De minimis non curat lex.*

It is next contended that sectarian teaching of public-school students in public-school buildings durings school hours is violative of section 6-43 of the School Code. (Ill. Rev. Stat. 1945, chap. 122, par. 6-43.) Under this section the following power is conferred upon school directors: "To have the control and supervision of all public

schoolhouses in their district, and to grant the temporary use of them, when not occupied by schools, for religious meetings and Sunday schools, for evening schools and literary societies, and for such other meetings as the directors deem proper; to grant the use of assembly halls and class rooms when not otherwise needed, including light, heat and attendants, for public lectures, concerts, and other educational and social interests, under such provisions and control as they may see fit to impose and to conduct, or provide for the conducting of recreational, social and civic activities in the school buildings." That part of the statute beginning with the words "to grant the [fol. 351] use" and concluding with the word "buildings," was added by the amendment of 1915, and appellant cites the case of *Lagow* v. *Hill*, 238 Ill. 428, which case was decided in 1909, before that amendment. In the *Lagow case* a taxpayer of the school district filed a bill in equity to restrain the board of school directors from permitting certain fraternal organizations to hold meetings in one room of the school building in said district. The evidence there disclosed that the schoolhouse, a two-story brick building, consisted of two rooms downstairs, and a large assembly room and a small room designed as an office for the superintendent on the upper floor. No part of the second floor at the time this suit was filed was being used for school purposes, the rooms on the first floor affording ample accommodation for the classes. It was contended by the taxpayer that the board of directors had exceeded their statutory powers in permitting the temporary use of the second floor by certain fraternal organizations. The evidence discloses that the school directors, for a consideration, permitted the Modern Woodmen and other fraternal organizations to hold meetings in the upper room. A number of teachers testified that the holding of these meetings in no way disturbed or interrupted the school. This court there held the statute clearly gave the board of directors the power in their discretion to grant the use of the school building or such part thereof as was not occupied by the school, for any meeting which the board deemed proper. This holding was based on the evidence of the teachers who testified that holding these meetings in no way disturbed or interrupted the schools.

We find, in the instant case, a teacher in the schools for sixteen years was called as a witness for appellant.

She testified: "In the bulletin we are advised that the religious education teacher will appear in the building prior to 8:30, the official school time; that is when the first bell rings, to confer with the principal and teachers as to the time they find it will fit best into their program, so that it will in no way interfere with the regular secular subjects." She further testified: "Our program is flexible. We do not teach a subject according to the minutes of the day and hour. We are teaching subject matter, not time. A class or a subject is never omitted even though thirty minutes out of the fifty-minute arithmetic class might be taken on Monday morning. There is fifty minutes of time in the week about which there is no provision for use in [fol. 352] the public-school course. If thirty minutes is used for religious education there is still twenty minutes of unassigned time." From this, we are able to discern that these classes as arranged caused but very little, if any, disturbance and no interruption as to classes. This was the import of the holding in the *Lagow case* as cited by appellant. Under such circumstances as detailed here in the conduct of the schools and the method of holding the classes, the contention that the board of education exceeded its statutory powers is not tenable. Questions of policy are solely for the determination of the board, and when they have once been determined by it the courts will not inquire into their propriety. (*People ex rel. Fursman* v. *City of Chicago*, 278 Ill. 318.) Courts will not interfere with the judgment of the board unless by an arbitrary and discriminatory action it abuses the power granted. *Segar* v. *Board of Education*, 317 Ill. 418.

It is admitted by appellant that a school board has a wide discretion in the exercise of its powers; (*Board of School Inspectors* v. *People ex rel. Grove*, 20 Ill. 526; *Wilson* v. *Board of Education*, 2[illegible] Ill. 464; *People ex rel. Fursman* v. *City of Chicago*, 278 Ill. 318, *Segar* v. *Board of Education*, 317 Ill. 418;) but it is contended the discretion which may be exercised is that within powers conferred by the statute; that the board of education cannot exercise any power except in the manner provided by statute. *Carter Oil Co.* v. *Liggett*, 371 Ill. 482.

It is, of course, true the board of education cannot exercise any power except in the manner provided in the statute, but that always presents the difficult question as to whether or not, under the existing facts, it has im-

properly exercised a power not in any manner provided by such statute. Apparently, the board here had worked out a plan for religious education classes and by the plan it was not necessary for the schoolroom to be occupied for any other purpose at that particular time. Further, these classes were so arranged as not to conflict with others. This arrangement, coupled with the rule that courts will not interfere with the judgment of the board unless it has abused the powers granted, would not seem to be a violation of the power which the board was permitted to exercise.

It is urged by appellant that as the power is vested in school boards by the Illinois statutes, (Ill. Rev. Stat. 1945, chap. 122, par. 6-43,) to grant the temporary use of schoolhouses when not occupied by schools, for religious meet- [fol. 353] ings and Sunday schools, no authority is granted to choose sects or dominations, and, in the absence of such authority, there would be an equal duty to all applicants; that the existence of a discretion, either by grant or implication, would invalidate the statute as violative of section 2 of article II and article III of the constitution of Illinois, and as violative of the fourteenth amendment to the constitution of the United States. It is true that if the power is clearly legislative in nature and exclusively belongs to the legislative department of the government, its delegation by the legislature would be unconstitutional; but in sustaining grants of power the courts have been guided considerably by considerations of expediency. They have recognized that a certain degree of deliberation is essential to the efficient and effective operation of the government, and that in some situations the legislature must leave to the executive officers and administrative boards the duty of carrying out the mandate of the statute. As heretofore pointed out, school boards have a wide discretion in the exercise of powers conferred upon them, and the courts will not interfere with the judgment of the board unless by an arbitrary and discretionary action the powers granted are abused. As to the particular point that no authority is granted to choose sects, there was no choice here on the part of the board.

Aside from the fact that the question of discretion amounting to delegation of legislative power was not raised in any manner in the trial court, it does not appear from this record, including the testimony as referred to in appel-

lant's brief, that there was any arbitrary and discretionary action by the board of the particular powers granted. Appellant's contention in this respect cannot be maintained.

We have the record here, which, relieved of its excess verbiage, technicalities and niceties, presents the simple question, does either the Federal or State constitution, or both, in their guaranty of religious freedom, prohibit voluntary religious classes in the public schools under the plan as disclosed by this record? Certainly, such classes do not violate the freedom of conscience of any individual or group so long as the classes are conducted upon a purely voluntary basis. Freedom of religion as intended by those [fol. 354] who wrote the State and Federal constitutions means the right of an individual to entertain any desired religious belief without interference from the State. Our government very wisely refuses to recognize a specific religion, but this cannot mean that the government does not recognize or subscribe to religious ideals. We find such recognition in the very preamble of our State constitution. The government does not recognize a particular faith but this does not mean that it is indifferent to religious faith. To deny the existence of religious motivation is to deny the inspiration and authority of the constitution itself.

We do not find, from this voluminous record, anything that would warrant us in finding that there has been any violation of State and Federal guaranties, or, under the system as outlined, a violation of section 6-43 of the School Code of Illinois.

For the reasons heretofore announced, the judgment of the circuit court is affirmed.

Judgment affirmed.

[fol. 355] IN SUPREME COURT OF ILLINOIS

No. 29678

PEOPLE STATE OF ILLINOIS ex rel. VASHTI McCOLLUM, Appellant,

vs.

BOARD OF EDUCATION OF SCHOOL DISTRICT NUMBER 71, CHAMPAIGN COUNTY, ILLINOIS, et al., Appellees

Appeal from Circuit Court, Champaign County, 18101

JUDGMENT—January 22, 1947

And now, on this day, this cause having been argued by counsel, and the Court, having diligently examined and inspected as well the record and proceedings aforesaid, as matters and things therein assigned for error, and now, being sufficiently advised of and concerning the premises for that it appears to the Court now here, that neither in the record and proceedings aforesaid, nor in the rendition of the judgment aforesaid, is there anything erroneous, vicious or defective, and in that record there is no error.

Therefore, it is considered by the Court that the judgment of the Circuit Court of Champaign County aforesaid, Be Affirmed in All Things and Stand in Full Force and Effect, notwithstanding the said matter and things therein assigned for error. And it is further considered by the Court that the said appellees recover of and from the said appellant costs by them in this behalf expended, to be taxed, and that they have execution therefor.

[fol. 355a] SUPREME COURT OF THE UNITED STATES

[Title omitted]

PETITION FOR APPEAL—Filed April 18, 1947

To the Honorable Walter T. Gunn, Chief Justice of the Supreme Court of the State of Illinois:

Your petitioner, Appellant in the above-entitled cause and relator in the mandamus action of the same title in the Circuit Court of Champaign County, Illinois and in the

Supreme Court of Illinois, considering herself aggrieved by the final decision and judgment of the Supreme Court of Illinois, entered on the 7th day of February, 1947, in the said cause last mentioned, desires that an appeal be allowed to the Supreme Court of the United States and for other and further relief. She avers that this case draws in question the validity of a statute of the State of Illinois on the ground of its being repugnant to the constitution of the United States, and that the decision of the state court has been in favor of its validity; a statute of the State of Illinois being herein involved in that a public school system is pro-
[fol. 356] vided by the constitution of the State of Illinois; the board of directors which is Appellee herein and all other such boards are authorized "to adopt and enforce all necessary rules and regulations for the management and government of the public schools in their district"; and the decision of the state court has been in favor of the validity of regulations and rules of such local body which constitute exertions of the state law making power. The Supreme Court of the United States therefore has jurisdiction of this appeal. Judicial Code, Section 237 (a), as amended; 28 U. S. Code(Sec. 344 (a).

Assignment of Errors

Appellant assigns the following errors in the record proceedings in this case:

1. The Supreme Court of Illinois erred in sustaining a plan of religious education in public schools which deprives of due process of law and denies equal protection of *of* the laws, through a law "respecting an establishment of religion and prohibiting the free exercise thereof," in violation of the Fourteenth Amendment; such plan applying to participating and non-participating sectarian groups and also to those who accept no creed, with the public expense borne equally by taxpayers of all such groups. The Supreme Court of Illinois denies a freedom of religion which is common to all and as to which all must be treated equally.

2. The Supreme Court of Illinois erred in sustaining a plan segregating public school pupils into sectarian groups for religious education, with a separate segregation of those
[fol. 357] refusing to join in such education, such plan being violative of the Fourteenth Amendment to the Constitution

of the United States. Such plan violates the constitutional guarantee of freedom of religion; encourages the creation and friction of sectarian groups in the public schools; forces the segregation of non-religious groups; and places a majority or dominant religious group in a controlling position in the public school system, which requires compulsory attendance except where there is attendance at a private or parochial school having designated standards.

3. The Supreme Court of Illinois erred in sustaining a discretion vested in an administrative body and officer to determine (1) what sectarian groups should be permitted to teach public school pupils in the public school buildings and during school hours; (2) the character of religious teachers of such groups; and (3) the material to be taught; such discretionary powers in religious education in the public schools being in violation of the guarantees of due process of law and of equal protection of the laws of the Fourteenth Amendment to the Constitution of the United States.

Prayer for Reversal

Wherefore, your petitioner prays:

1. That an appeal be allowed herein from the Supreme Court of the State of Illinois to the Supreme Court of the United States, to the end that said judgment of the Supreme Court of Illinois, dated February 7, 1947, may be reversed and judgment rendered in favor of said appellant, and for costs.

[fol. 358] 2. That the amount of cost bond to be given by Appellant be fixed.

3. That citation issue to the Appellee named above.

4. For such other and further relief to which Appellant may be entitled.

Respectfully submitted, Walter F. Dodd, Attorney for Appellant.

[fol. 359] SUPREME COURT OF THE UNITED STATES

[Title omitted]

ORDER ALLOWING APPEAL—Filed April 18, 1947

The appellant in the above entitled cause having prayed for the allowance of an appeal in this cause to the Supreme Court of the United States from the judgment made and entered in the above entitled cause by the Supreme Court of Illinois on the 7th day of February, 1947, and from each and every part thereof, and having presented and filed her petition for appeal, assignment of errors, prayer for reversal, and statement as to jurisdiction, pursuant to the statutes of the United States and the rules of the Supreme Court of the United States, in such case made and provided:

It is now Ordered that an appeal be and the same is hereby allowed to the Supreme Court of the United States from the Supreme Court of the State of Illinois in the above-entitled cause, as is provided by law; and

It is further Ordered that the Clerk of the Supreme Court of Illinois shall prepare and certify a transcript of the [fol. 360] record, proceedings and judgment in this cause and transmit the same to the Supreme Court of the United States so that he shall have the same in said Court within forty days of this date, and

It is further Ordered that security for costs on appeal be fixed in the sum of Five hundred dollars ($500).

Signed Walter T. Gunn, Chief Justice of the Supreme Court of Illinois.

Dated: Apr. 16, 1947.

[fol. 361] Citation in usual form showing service on Owen Rall omitted in printing.

[fol. 362] Cost bond on Appeal for $500.00 approved and filed April 18, 1947 omitted in printing.

[fol. 363] SUPREME COURT OF THE UNITED STATES

[Title omitted]

STIPULATION AS TO RECORD ON APPEAL—Filed April 21, 1947

It is hereby stipulated by and between the parties to the above entitled cause, by their respective counsel, that the record on appeal shall consist of the following:

1. The printed abstract of record submitted to the Supreme Court of Illinois in this case, such printed abstract of 342 pages being agreed to contain all that is material in the 1185 typewritten pages of proceedings in the trial court which would otherwise constitute a portion of the record to be transmitted to the Supreme Court of the United States.

2. Judgment entered by Supreme Court of Illinois.

3. Petition for appeal, with assignment of errors and prayer for appeal.

4. Jurisdictional statement, with the opinion of the Supreme Court of Illinois attached.

5. Order allowing appeal.

6. Proof of service within five days of petition for, and order allowing the appeal, together with a copy of the assignment of errors; the jurisdictional statement; and a statement directing attention to paragraph 3 of Rule 12 of the United States Supreme Court.

7. Citation, and proof of service.

8. Bond for costs.

9. Stipulation as to record.

Walter F. Dodd, Attorney for Appellant, John L. Franklin, A. R. Peterson and Owen Rall, Attorneys for Appellee.

[fol. 364] Clerk's certificate to foregoing transcript omitted in printing.

[fol. 365] IN THE SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS ON WHICH APPELLANT INTENDS TO RELY AND PARTS OF RECORD TO BE PRINTED—Filed May 22, 1947.

Appellant adopts her assignment of errors, constituting a part of petition for appeal, as a statement of the points upon which she intends to rely.

Appellant states that the entire record, as filed in the above entitled cause, is necessary for the consideration of the points relied upon.

Walter F. Dodd, 30 North LaSalle Street, Chicago, Illinois, Attorney for Appellant.

Due service and receipt of the foregoing statement of points to be relied upon and designation of the record to be printed is hereby acknowledged this 20th day of May, 1947.

A. R. Peterson, Owen Rall, J. L. Franklin, Attorneys for Appellees.

[fol. 365a] (File endorsement omitted.)

[fol. 366] SUPREME COURT OF THE UNITED STATES

ORDER NOTING PROBABLE JURISDICTION—June 2, 1947

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

[Endorsed on Cover:] File No. 52,238 Illinois, Supreme Court, Term No. 90. People of the State of Illinois, ex rel., Vashti McCollum, Appellant vs. Board of Education of School District No. 71, Champaign County, Illinois, et al. Filed May 15, 1947. Term No. 90 O. T. 1947.